

THE FLORIDA SENATE
2024 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 1181 — Juvenile Justice

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Jacques and others
(CS/CS/SB 1274 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Martin)

This bill makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S. Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

Prearrest and Postarrest Programs

The bill amends s. 985.12, F.S., relating to civil citation programs, to rename civil citation programs as prearrest delinquency citation programs, prohibit such programs for firearm related offenses, and provide such programs must specify classes established for the program.

Additionally, a law enforcement agency, in cooperation with the state attorney, may establish a postarrest diversion program. Under current law, a school district or a law enforcement agency may establish a prearrest or post arrest diversion program.

The bill revises reporting requirements for law enforcement agencies and the Florida Department of Juvenile Justice (DJJ). Each law enforcement agency must submit specified information to the DJJ for every minor who is charged for the first-time with a misdemeanor, and who was referred to the DJJ.

Additionally, the DJJ must publish quarterly reports on its website and distribute the reports to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use prearrest delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Firearm and Other Serious Offenses

The bill amends s. 790.22, F.S., to permit a minor charged with possession of a firearm by a minor to complete paid work in lieu of community service ordered as part of his or her sentence. A minor who commits a third or subsequent offense must be adjudicated delinquent and sentenced to a residential program.

A withhold of adjudication of delinquency must be considered a prior offense for the purpose of determining a second, third, or subsequent offense of possession of a firearm by a minor.

The bill provides a court may commit a child who commits a misdemeanor offense of possession of a firearm by a minor to a residential facility.

An officer may make a warrantless arrest for the misdemeanor crime of possession of a firearm by a minor, under s. 901.15, F.S.

Any child adjudicated by the court and committed for any offense or attempted offense involving a firearm must be placed on conditional release for at least 1 year after release from the residential commitment program. Such terms of conditional release must include electronic monitoring for the initial six months under terms and conditions set by the DJJ.

For a firearm offense, other than minor possession of a firearm under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order 30 days of secure detention, 100 hours of community service, and 1 year probation. The court may impose restrictions on the minor's driver license.

The court may, upon finding a compelling circumstance, direct the Florida Department of Highway Safety and Motor Vehicles to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

The DJJ shall establish a class focused on the risk and consequences of youthful firearm offending and shall provide the class to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Secure Detention

The bill amends s. 985.25, F.S., requiring youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release be placed in secure detention until a detention hearing.

A child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If the state attorney notifies the court that commitment will be sought, the child must remain in secure detention pending proceedings until the 21 day period of secure detention has expired. The state attorney may motion that the child be held an additional 21 days.

The bill specifies the court has the authority to depart from the detention risk assessment instrument and order continued detention: if the court makes certain findings, or the court finds probable cause that the minor committed a specified offense. For a child who has committed a specified offense, there is a presumption that the child presents a risk to public safety and danger to the community and must be held in secure detention, unless the court makes certain findings. Written notice of release must be given to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the minor's residence.

If an adjudicatory hearing has not been held after 60 days, the court must prioritize the efficient disposition of cases and hold a review hearing within each successive 7 day review period.

The bill amends s. 985.26, F.S., to provide the court may order a child to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for specified offenses.

Probation

The bill amends multiple sections throughout ch. 985, F.S., to remove reference to post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

Upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing. Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

The bill provides that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

Section 985.438, F.S., is created and requires the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release. The graduated response matrix shall outline sanctions for youth based on their risk to reoffend.

Conditional Release

The bill requires conditional release after commitment unless the youth is directly released. Specified conditions of conditional release must be placed on the minor. A youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

Contraband

The bill adds currency or coin, and cigarettes or tobacco products to the list of contraband, and provides it is a second degree felony to introduce contraband into a DJJ facility. The DJJ staff may utilize canine units on the grounds of a juvenile detention facility or commitment program to locate and seize contraband and ensure security within such a facility or program.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.

Vote: Senate 39-0; House 84-25