

By Senator Lee

23-1007A-98

See HB

1                                   A bill to be entitled  
2           An act relating to delinquent acts or criminal  
3           offenses committed by juveniles; amending s.  
4           90.610, F.S., relating to conviction of certain  
5           crimes as impeachment; providing that certain  
6           adjudications of delinquency are admissible  
7           into evidence for impeachment purposes;  
8           amending s. 921.0011, F.S.; redefining the term  
9           "prior record" with respect to specified  
10          provisions relating to sentencing; providing  
11          for scoring as adult offenses an offender's  
12          prior juvenile offenses that would be crimes if  
13          committed by an adult; providing for a  
14          withholding of an adjudication of delinquency  
15          or an adjudication of guilt to be considered a  
16          conviction for certain purposes relating to  
17          sentencing; providing for expiration; amending  
18          s. 921.0021, F.S.; redefining the term "prior  
19          record" with respect to specified provisions  
20          relating to sentencing; providing for scoring  
21          as adult offenses an offender's prior juvenile  
22          offenses that would be crimes if committed by  
23          an adult; amending s. 943.0515, F.S., relating  
24          to retention of criminal history records of  
25          minors; providing for an offender's criminal  
26          history record of forcible or nonforcible  
27          felonies charged as an adult to be merged and  
28          retained as a part of the person's adult  
29          criminal history record, under specified  
30          circumstances; amending s. 985.03, F.S.;  
31          defining "violation of supervision" with

1           respect to specified provisions relating to  
2           delinquency; amending s. 985.04, F.S., relating  
3           to oaths, records, and confidential  
4           information; providing for public disclosure of  
5           all of a juvenile's prior history of acts that  
6           would be crimes if committed by an adult, and  
7           of orders of disposition for such acts;  
8           providing for a withholding of an adjudication  
9           of delinquency or an adjudication of guilt to  
10          be considered a conviction for certain purposes  
11          relating to disclosure of the records;  
12          reenacting s. 985.31(4)(k), F.S., relating to  
13          serious or habitual juvenile offenders, to  
14          incorporate said amendment in a reference;  
15          amending s. 985.05, F.S., relating to court  
16          records; providing for nonapplicability of  
17          certain recordkeeping requirements to  
18          nonconfidential juvenile history records;  
19          providing for admissibility in other civil or  
20          criminal proceedings of certain court records  
21          of juvenile proceedings; providing for merger  
22          of a defendant's record of prior delinquent  
23          acts with the defendant's adult record, under  
24          specified circumstances; amending s. 985.211,  
25          F.S., relating to release or delivery from  
26          custody; providing for reference to violation  
27          of supervision in certain written reports or  
28          probable cause affidavits; amending s. 985.21,  
29          F.S., relating to intake and case management;  
30          providing that the state attorney may take  
31          certain actions unless otherwise required by

1 law; amending s. 985.213, F.S., relating to use  
2 of detention; conforming references; amending  
3 s. 985.215, F.S., relating to detention;  
4 providing for an exception with respect to  
5 court use of risk assessment when a child is  
6 subject to detention order or special detention  
7 order pursuant to specified provisions;  
8 reenacting s. 985.208(1), relating to detention  
9 of furloughed child or escapee on authority of  
10 the department, and s. 985.219(5), relating to  
11 process and service, to incorporate said  
12 amendment in references; creating s. 985.2155,  
13 F.S., relating to arraignments and hearings for  
14 violations of supervision and failure to  
15 appear; providing for detention of a juvenile  
16 for a maximum of 14 days while awaiting the  
17 hearing, under certain circumstances when the  
18 juvenile has failed to appear; providing an  
19 exception; repealing s. 985.218(6), F.S.,  
20 relating to petitions for delinquency; removing  
21 provisions requiring the dismissal of a  
22 petition with prejudice when the adjudicatory  
23 hearing is not commenced within 90 days;  
24 removing provisions authorizing the court to  
25 extend the 90-day period; amending s. 985.226,  
26 F.S., relating to criteria for discretionary  
27 waiver and mandatory waiver of juvenile court  
28 jurisdiction; providing for the state attorney  
29 to file a motion requesting the court to  
30 transfer a child of at least 14 years of age  
31 for criminal prosecution, under specified

1           circumstances; providing for exceptions;  
2           amending s. 985.227, F.S., relating to  
3           discretionary direct-file criteria and  
4           mandatory direct-file criteria; permitting the  
5           filing of an information when a child was 14 or  
6           15 years of age at the time the child attempted  
7           to commit any one of specified offenses;  
8           requiring the state attorney to file an  
9           information for certain illegal acts when the  
10          child committing the act is at least 16 years  
11          of age and has a specified history of  
12          delinquent acts; revising duties of the court  
13          and guidelines for transfer of cases pertaining  
14          to the child when a child is transferred for  
15          adult prosecution; removing a requirement for  
16          annual updating by the state attorney of  
17          direct-file policies and guidelines; providing  
18          that the information filed pursuant to  
19          specified provisions may include all charges  
20          that are based on the same act, criminal  
21          episode, or transaction as the primary offense;  
22          amending s. 985.228, F.S., relating to  
23          adjudicatory hearings, to conform an exception  
24          to the construction of "conviction"; amending  
25          s. 985.231, F.S.; revising powers of  
26          disposition in delinquency cases; conforming  
27          references; providing for exceptions to conform  
28          to changes made by the act; amending s.  
29          985.233, F.S., relating to sentencing powers,  
30          procedures, and dispositional alternatives for  
31          juveniles prosecuted as adults; revising

1 sentencing alternatives in cases when a child  
2 is prosecuted on indictment and other cases;  
3 providing that a court may withhold  
4 adjudication of guilt and place the child on  
5 probation or community control to be supervised  
6 by the Department of Corrections, under  
7 specified circumstances; providing for  
8 completion of a commitment program recommended  
9 by the Department of Juvenile Justice as a  
10 special condition of the probation or community  
11 control; authorizing a judge in adult court to  
12 access the juvenile commitment programs for  
13 sentencing purposes; providing that the  
14 juvenile would not be required to pay  
15 supervision costs to the Department of  
16 Corrections while participating in a Department  
17 of Juvenile Justice commitment program;  
18 prohibiting imposition of certain sentencing  
19 alternatives and juvenile sanctions and  
20 prohibiting withholding of adjudication as an  
21 adult when the state attorney's motion to  
22 transfer and certify the child for prosecution  
23 as an adult is granted under specified  
24 provisions; revising guidelines for sentencing  
25 to juvenile sanctions; removing a requirement  
26 that the court stay adjudication of guilt when  
27 the child is sentenced to juvenile sanctions  
28 under specified provisions; removing provisions  
29 that the adjudication of delinquency shall not  
30 be deemed to be a conviction or operate to  
31 impose civil disabilities resulting from a

1 conviction; removing a prohibition against the  
2 imposition of a combination of juvenile and  
3 adult sanctions; reenacting s. 985.225(3) and  
4 (4), relating to indictment of a juvenile, and  
5 s. 985.31(3)(k), relating to serious or  
6 habitual juvenile offenders, to incorporate  
7 said amendment in references; amending s.  
8 985.309, F.S., relating to criteria for  
9 placement of a child in a boot camp program;  
10 providing for boot camp placement of a child at  
11 least 14 years of age who has not entered a  
12 plea of guilty or nolo contendere to, or been  
13 adjudicated of, a capital felony, life felony,  
14 or violent felony of the first degree;  
15 providing for early-intervention boot camp  
16 placement of a child at least 12 years of age  
17 under specified circumstances; providing for  
18 certain minimum periods of participation in  
19 aftercare; authorizing operation of an  
20 early-intervention boot camp program by the  
21 Department of Juvenile Justice, or a county or  
22 municipality; providing purpose of program;  
23 providing criteria for disqualification from  
24 participation in the early-intervention boot  
25 camp program; reenacting s. 985.231(1)(j),  
26 relating to powers of disposition in  
27 delinquency cases, s. 985.31(3)(i), relating to  
28 serious or habitual juvenile offenders, s.  
29 985.311(3)(i), relating to intensive  
30 residential treatment programs for offenders  
31 less than 13 years of age, and s.

1 985.314(1)(a), relating to commitment programs  
2 for juvenile felony offenders, to incorporate  
3 said amendment in references; amending s.  
4 985.404, F.S., relating to administration of  
5 the juvenile justice continuum; specifying  
6 factors to be considered in the report ranking  
7 commitment programs; providing an effective  
8 date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Section 90.610, Florida Statutes, is  
13 amended to read:

14 90.610 Conviction of certain crimes or adjudication of  
15 delinquency as impeachment.--

16 (1) A party may attack the credibility of any witness,  
17 including an accused, by evidence that the witness has been  
18 convicted of a crime if the crime was punishable by death or  
19 imprisonment in excess of 1 year under the law under which the  
20 witness was convicted, or if the crime involved dishonesty or  
21 a false statement regardless of the punishment. However, with  
22 the following exceptions:

23 ~~(a)~~ evidence of any such conviction is inadmissible in  
24 a civil trial if it is so remote in time as to have no bearing  
25 on the present character of the witness.

26 ~~(b) Evidence of juvenile adjudications are~~  
27 ~~inadmissible under this subsection.~~

28 (2) A party may attack the credibility of any witness,  
29 including an accused, by evidence of an adjudication of  
30 delinquency for an act that would be punishable by death or  
31 imprisonment in excess of 1 year if the act were committed by

1 an adult under the law under which the witness was adjudicated  
2 delinquent, or if the delinquent act involved dishonesty or a  
3 false statement regardless of punishment. However, evidence of  
4 any such adjudication of delinquency is inadmissible in a  
5 civil trial if it is so remote in time as to have no bearing  
6 on the present character of the witness.

7 (3)(2) The pendency of an appeal or the granting of a  
8 pardon relating to such crime or delinquent act does not  
9 render evidence of the conviction or adjudication of  
10 delinquency from which the appeal was taken or for which the  
11 pardon was granted inadmissible. Evidence of the pendency of  
12 the appeal is admissible.

13 (4)(3) Nothing in this section affects the  
14 admissibility of evidence under s. 90.404 or s. 90.608.

15 Section 2. Subsection (5) of section 921.0011, Florida  
16 Statutes, is amended to read:

17 921.0011 Definitions.--As used in this chapter, the  
18 term:

19 (5) "Prior record" means a conviction for a crime  
20 committed by the offender, as an adult or a juvenile, prior to  
21 the time of the primary offense. Convictions by federal,  
22 out-of-state, military, or foreign courts, and convictions for  
23 violations of county or municipal ordinances that incorporate  
24 by reference a penalty under state law, are included in the  
25 offender's prior record. Convictions for offenses committed  
26 by the offender more than 10 years before the primary offense  
27 are not included in the offender's prior record if the  
28 offender has not been convicted of any other crime for a  
29 period of 10 consecutive years from the most recent date of  
30 release from confinement, supervision, or sanction, whichever  
31 is later, to the date of the primary offense. All of an

1 offender's prior juvenile history of acts that would be crimes  
2 if committed by an adult shall be scored and considered as  
3 offenses committed by an adult. For the purposes of this  
4 subsection, a withholding of adjudication of delinquency or a  
5 withholding of adjudication of guilt shall be considered a  
6 conviction. ~~Juvenile dispositions of offenses committed by~~  
7 ~~the offender within 3 years before the primary offense are~~  
8 ~~included in the offender's prior record when the offense would~~  
9 ~~have been a crime had the offender been an adult rather than a~~  
10 ~~juvenile. Juvenile dispositions of sexual offenses committed~~  
11 ~~by the offender which were committed 3 years or more before~~  
12 ~~the primary offense are included in the offender's prior~~  
13 ~~record if the offender has not maintained a conviction-free~~  
14 ~~record, either as an adult or a juvenile, for a period of 3~~  
15 ~~consecutive years from the most recent date of release from~~  
16 ~~confinement, supervision, or sanction, whichever is later, to~~  
17 ~~the date of the primary offense.~~

18 Section 3. Section 921.0011, Florida Statutes, as  
19 amended by this act, expires October 1, 1998.

20 Section 4. Subsection (5) of section 921.0021, Florida  
21 Statutes, is amended to read:

22 921.0021 Definitions.--As used in this chapter, the  
23 term:

24 (5) "Prior record" means a conviction for a crime  
25 committed by the offender, as an adult or a juvenile, prior to  
26 the time of the primary offense. Convictions by federal,  
27 out-of-state, military, or foreign courts, and convictions for  
28 violations of county or municipal ordinances that incorporate  
29 by reference a penalty under state law, are included in the  
30 offender's prior record. Convictions for offenses committed  
31 by the offender more than 10 years before the primary offense

1 are not included in the offender's prior record if the  
2 offender has not been convicted of any other crime for a  
3 period of 10 consecutive years from the most recent date of  
4 release from confinement, supervision, or sanction, whichever  
5 is later, to the date of the primary offense. All of an  
6 offender's prior juvenile history of acts that would be crimes  
7 if committed by an adult shall be scored and considered as  
8 offenses committed by an adult. For the purposes of this  
9 subsection, a withholding of adjudication of delinquency or a  
10 withholding of adjudication of guilt shall be considered a  
11 conviction. ~~Juvenile dispositions of offenses committed by the~~  
12 ~~offender within 3 years before the primary offense are~~  
13 ~~included in the offender's prior record when the offense would~~  
14 ~~have been a crime had the offender been an adult rather than a~~  
15 ~~juvenile. Juvenile dispositions of sexual offenses committed~~  
16 ~~by the offender which were committed 3 years or more before~~  
17 ~~the primary offense are included in the offender's prior~~  
18 ~~record if the offender has not maintained a conviction-free~~  
19 ~~record, either as an adult or a juvenile, for a period of 3~~  
20 ~~consecutive years from the most recent date of release from~~  
21 ~~confinement, supervision, or sanction, whichever is later, to~~  
22 ~~the date of the primary offense.~~

23 Section 5. Paragraphs (a) and (b) of subsection (2) of  
24 section 943.0515, Florida Statutes, are amended to read:

25 943.0515 Retention of criminal history records of  
26 minors.--

27 (1)(a) The Division of Criminal Justice Information  
28 Systems shall retain the criminal history record of a minor  
29 who is classified as a serious or habitual juvenile offender  
30 under chapter 39 for 5 years after the date the offender  
31 reaches 21 years of age, at which time the record shall be

1 expunged unless it meets the criteria of paragraph (2)(a) or  
2 paragraph (2)(b).

3 (b) If the minor is not classified as a serious or  
4 habitual juvenile under chapter 39, the division shall retain  
5 the minor's criminal history record for 5 years after the date  
6 the minor reaches 19 years of age, at which time the record  
7 shall be expunged unless it meets the criteria of paragraph  
8 (2)(a) or paragraph (2)(b).

9 (2)(a) If a person is charged as an adult for  
10 committing a 18 years of age or older is charged with or  
11 convicted of a forcible felony and the person's criminal  
12 history record as a minor has not yet been destroyed, the  
13 person's record as a minor must be merged with the person's  
14 adult criminal history record and must be retained as a part  
15 of the person's adult record.

16 (b) If, at any time, a minor is adjudicated as an  
17 adult for a ~~forcible~~ felony, the minor's criminal history  
18 record prior to the time of the minor's adjudication as an  
19 adult must be merged with his or her record as an adjudicated  
20 adult.

21 Section 6. Subsection (59) is added to section 985.03,  
22 Florida Statutes, to read:

23 985.03 Definitions.--When used in this chapter, the  
24 term:

25 (59) "Violation of supervision" means a violation of  
26 community control or a violation of any other sanction that is  
27 imposed as a result of a disposition of a delinquent act,  
28 including, but not limited to, furlough or aftercare.

29 Section 7. Subsection (3) of section 985.04, Florida  
30 Statutes, is amended, and subsection (9) is added to said  
31 section, to read:

1           985.04 Oaths; records; confidential information.--  
2           (3) Except as provided in subsections (2), (4), (5),  
3 ~~and~~ (6), and (9) and s. 943.053, all information obtained  
4 under this part in the discharge of official duty by any  
5 judge, any employee of the court, any authorized agent of the  
6 Department of Juvenile Justice, the Parole Commission, the  
7 Juvenile Justice Advisory Board, the Department of  
8 Corrections, the district juvenile justice boards, any law  
9 enforcement agent, or any licensed professional or licensed  
10 community agency representative participating in the  
11 assessment or treatment of a juvenile is confidential and may  
12 be disclosed only to the authorized personnel of the court,  
13 the Department of Juvenile Justice and its designees, the  
14 Department of Corrections, the Parole Commission, the Juvenile  
15 Justice Advisory Board, law enforcement agents, school  
16 superintendents and their designees, any licensed professional  
17 or licensed community agency representative participating in  
18 the assessment or treatment of a juvenile, and others entitled  
19 under this chapter to receive that information, or upon order  
20 of the court. Within each county, the sheriff, the chiefs of  
21 police, the district school superintendent, and the department  
22 shall enter into an interagency agreement for the purpose of  
23 sharing information about juvenile offenders among all  
24 parties. The agreement must specify the conditions under which  
25 summary criminal history information is to be made available  
26 to appropriate school personnel, and the conditions under  
27 which school records are to be made available to appropriate  
28 department personnel. Such agreement shall require  
29 notification to any classroom teacher of assignment to the  
30 teacher's classroom of a juvenile who has been placed in a  
31 community control or commitment program for a felony offense.

1 The agencies entering into such agreement must comply with s.  
2 943.0525, and must maintain the confidentiality of information  
3 that is otherwise exempt from s. 119.07(1), as provided by  
4 law.

5 (9) Notwithstanding any other provision to the  
6 contrary, records of all of a juvenile's prior history of acts  
7 that would be crimes if committed by an adult, and orders of  
8 disposition for such acts, are public records and not  
9 confidential.

10 Section 8. For the purpose of incorporating the  
11 amendment to s. 985.04, Florida Statutes, in a reference  
12 thereto, paragraph (k) of subsection (4) of section 985.31,  
13 Florida Statutes, is reenacted to read:

14 985.31 Serious or habitual juvenile offender.--

15 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

16 (k) Assessment and treatment records are confidential  
17 as described in this paragraph and exempt from the provisions  
18 of s. 119.07(1) and s. 24(a), Art. I of the State  
19 Constitution.

20 1. The department shall have full access to the  
21 assessment and treatment records to ensure coordination of  
22 services to the child.

23 2. The principles of confidentiality of records as  
24 provided in s. 985.04 shall apply to the assessment and  
25 treatment records of serious or habitual juvenile offenders.

26 Section 9. Subsection (1) of section 985.05, Florida  
27 Statutes, is amended, and paragraph (f) is added to subsection  
28 (4) of said section, to read:

29 985.05 Court records.--

30 (1) The clerk of the court shall make and keep records  
31 of all cases brought before it pursuant to this part. The

1 court shall preserve the records pertaining to a child charged  
2 with committing a delinquent act or violation of law until the  
3 child reaches 24 years of age or reaches 26 years of age if he  
4 or she is a serious or habitual delinquent child, ~~until 5~~  
5 ~~years after the last entry was made,~~ or until 3 years after  
6 the death of the child, whichever is earlier, and may then  
7 destroy them, except that records made of traffic offenses in  
8 which there is no allegation of delinquency may be destroyed  
9 as soon as this can be reasonably accomplished. If a defendant  
10 is sentenced for a felony committed before reaching 24 years  
11 of age, the clerk must merge the defendant's record of prior  
12 delinquent acts with his or her adult record. Records merged  
13 pursuant to this section are not confidential. The court shall  
14 make official records of all petitions and orders filed in a  
15 case arising pursuant to this part and of any other pleadings,  
16 certificates, proofs of publication, summonses, warrants, and  
17 writs that are filed pursuant to the case.

18 (4) A court record of proceedings under this part is  
19 not admissible in evidence in any other civil or criminal  
20 proceeding, except that:

21 (f) Records that are not confidential as provided in  
22 s. 985.04(9) are admissible to the same extent that records of  
23 offenses committed by adults are admissible.

24 Section 10. Subsection (6) of section 985.228, Florida  
25 Statutes, is amended to read:

26 985.228 Adjudicatory hearings; withheld adjudications;  
27 orders of adjudication.--

28 (6) Except as the term "conviction" is used in chapter  
29 322, and except for use in a subsequent proceeding under this  
30 chapter, or as otherwise provided by law, an adjudication of  
31 delinquency by a court with respect to any child who has

1 committed a delinquent act or violation of law shall not be  
2 deemed a conviction; nor shall the child be deemed to have  
3 been found guilty or to be a criminal by reason of that  
4 adjudication; nor shall that adjudication operate to impose  
5 upon the child any of the civil disabilities ordinarily  
6 imposed by or resulting from conviction or to disqualify or  
7 prejudice the child in any civil service application or  
8 appointment, with the exception of the use of records of  
9 proceedings under this part as provided in s. 985.05(4).

10 Section 11. Paragraph (e) of subsection (4) of section  
11 985.21, Florida Statutes, is amended to read:

12 985.21 Intake and case management.--

13 (4) The intake counselor or case manager shall make a  
14 preliminary determination as to whether the report, affidavit,  
15 or complaint is complete, consulting with the state attorney  
16 as may be necessary. In any case where the intake counselor or  
17 case manager or the state attorney finds that the report,  
18 affidavit, or complaint is insufficient by the standards for a  
19 probable cause affidavit, the intake counselor or case manager  
20 or state attorney shall return the report, affidavit, or  
21 complaint, without delay, to the person or agency originating  
22 the report, affidavit, or complaint or having knowledge of the  
23 facts or to the appropriate law enforcement agency having  
24 investigative jurisdiction of the offense, and shall request,  
25 and the person or agency shall promptly furnish, additional  
26 information in order to comply with the standards for a  
27 probable cause affidavit.

28 (e) The state attorney may in all cases take action  
29 independent of the action or lack of action of the intake  
30 counselor or case manager, and shall determine the action  
31 which is in the best interest of the public and the child. If

1 the child meets the criteria requiring prosecution as an adult  
2 pursuant to s. 985.226, the state attorney shall request the  
3 court to transfer and certify the child for prosecution as an  
4 adult or shall provide written reasons to the court for not  
5 making such request. In all other cases, the state attorney,  
6 unless otherwise required by law, may:

- 7 1. File a petition for dependency;
- 8 2. File a petition pursuant to chapter 984;
- 9 3. File a petition for delinquency;
- 10 4. File a petition for delinquency with a motion to  
11 transfer and certify the child for prosecution as an adult;
- 12 5. File an information pursuant to s. 985.227;
- 13 6. Refer the case to a grand jury;
- 14 7. Refer the child to a diversionary, pretrial  
15 intervention, arbitration, or mediation program, or to some  
16 other treatment or care program if such program commitment is  
17 voluntarily accepted by the child or the child's parents or  
18 legal guardians; or
- 19 8. Decline to file.

20 Section 12. Paragraph (b) of subsection (4) of section  
21 985.211, Florida Statutes, is amended to read:

22 985.211 Release or delivery from custody.--

23 (2) Unless otherwise ordered by the court pursuant to  
24 s. 985.215, and unless there is a need to hold the child, a  
25 person taking a child into custody shall attempt to release  
26 the child as follows:

27 (a) To the child's parent, guardian, or legal  
28 custodian or, if the child's parent, guardian, or legal  
29 custodian is unavailable, unwilling, or unable to provide  
30 supervision for the child, to any responsible adult. Prior to  
31 releasing the child to a responsible adult, other than the

1 parent, guardian, or legal custodian, the person taking the  
2 child into custody may conduct a criminal history background  
3 check of the person to whom the child is to be released. If  
4 the person has a prior felony conviction, or a conviction for  
5 child abuse, drug trafficking, or prostitution, that person is  
6 not a responsible adult for the purposes of this section. The  
7 person to whom the child is released shall agree to inform the  
8 department or the person releasing the child of the child's  
9 subsequent change of address and to produce the child in court  
10 at such time as the court may direct, and the child shall join  
11 in the agreement.

12 (b) Contingent upon specific appropriation, to a  
13 shelter approved by the department or to an authorized agent  
14 pursuant to s. 39.401(2)(b).

15 (c) If the child is believed to be suffering from a  
16 serious physical condition which requires either prompt  
17 diagnosis or prompt treatment, to a law enforcement officer  
18 who shall deliver the child to a hospital for necessary  
19 evaluation and treatment.

20 (d) If the child is believed to be mentally ill as  
21 defined in s. 394.463(1), to a law enforcement officer who  
22 shall take the child to a designated public receiving facility  
23 as defined in s. 394.455 for examination pursuant to the  
24 provisions of s. 394.463.

25 (e) If the child appears to be intoxicated and has  
26 threatened, attempted, or inflicted physical harm on himself  
27 or herself or another, or is incapacitated by substance abuse,  
28 to a law enforcement officer who shall deliver the child to a  
29 hospital, addictions receiving facility, or treatment  
30 resource.

31

1 (f) If available, to a juvenile assessment center  
2 equipped and staffed to assume custody of the child for the  
3 purpose of assessing the needs of the child in custody. The  
4 center may then release or deliver the child pursuant to this  
5 section with a copy of the assessment.

6 (4) A person taking a child into custody who  
7 determines, pursuant to s. 985.215, that the child should be  
8 detained or released to a shelter designated by the  
9 department, shall make a reasonable effort to immediately  
10 notify the parent, guardian, or legal custodian of the child  
11 and shall, without unreasonable delay, deliver the child to  
12 the appropriate intake counselor or case manager or, if the  
13 court has so ordered pursuant to s. 985.215, to a detention  
14 center or facility. Upon delivery of the child, the person  
15 taking the child into custody shall make a written report or  
16 probable cause affidavit to the appropriate intake counselor  
17 or case manager. Such written report or probable cause  
18 affidavit must:

19 (a) Identify the child and, if known, the parents,  
20 guardian, or legal custodian.

21 (b) Establish that the child was legally taken into  
22 custody, with sufficient information to establish the  
23 jurisdiction of the court and to make a prima facie showing  
24 that the child has committed a violation of law or a violation  
25 of supervision.

26 Section 13. Subsection (2) of section 985.215, Florida  
27 Statutes, is amended to read:

28 985.215 Detention.--

29 (2) Subject to the provisions of subsection (1), a  
30 child taken into custody and placed into nonsecure or home  
31

1 detention care or detained in secure detention care prior to a  
2 detention hearing may continue to be detained by the court if:

3 (a) The child is alleged to be an escapee or an  
4 absconder from a commitment program, a community control  
5 program, furlough, or aftercare supervision, or is alleged to  
6 have escaped while being lawfully transported to or from such  
7 program or supervision.

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

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

14 (d) The child is charged with committing an offense of  
15 domestic violence as defined in s. 741.28(1) and is detained  
16 as provided in s. 985.213(2)(b)3.

17 (e) The child is charged with a capital felony, a life  
18 felony, a felony of the first degree, a felony of the second  
19 degree that does not involve a violation of chapter 893, or a  
20 felony of the third degree that is also a crime of violence,  
21 including any such offense involving the use or possession of  
22 a firearm.

23 (f) The child is charged with any second degree or  
24 third degree felony involving a violation of chapter 893 or  
25 any third degree felony that is not also a crime of violence,  
26 and the child:

27 1. Has a record of failure to appear at court hearings  
28 after being properly notified in accordance with the Rules of  
29 Juvenile Procedure;

30 2. Has a record of law violations prior to court  
31 hearings;

1           3. Has already been detained or has been released and  
2 is awaiting final disposition of the case;

3           4. Has a record of violent conduct resulting in  
4 physical injury to others; or

5           5. Is found to have been in possession of a firearm.

6           (g) The child is alleged to have violated the  
7 conditions of the child's community control or aftercare  
8 supervision. However, a child detained under this paragraph  
9 may be held only in a consequence unit as provided in s.  
10 985.231(1)(a)1.c. If a consequence unit is not available, the  
11 child shall be placed on home detention with electronic  
12 monitoring.

13

14 A child who meets any of these criteria and who is ordered to  
15 be detained pursuant to this subsection shall be given a  
16 hearing within 24 hours after being taken into custody. The  
17 purpose of the detention hearing is to determine the existence  
18 of probable cause that the child has committed the delinquent  
19 act or violation of law with which he or she is charged and  
20 the need for continued detention. Unless a child is detained  
21 under paragraph (d) or s. 985.2155, the court shall utilize  
22 the results of the risk assessment performed by the intake  
23 counselor or case manager and, based on the criteria in this  
24 subsection, shall determine the need for continued detention.  
25 A child placed into secure, nonsecure, or home detention care  
26 may continue to be so detained by the court pursuant to this  
27 subsection. If the court orders a placement more restrictive  
28 than indicated by the results of the risk assessment  
29 instrument, the court shall state, in writing, clear and  
30 convincing reasons for such placement. Except as provided in  
31 s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b),

1 paragraph (10)(c), or paragraph (10)(d), when a child is  
2 placed into secure or nonsecure detention care, or into a  
3 respite home or other placement pursuant to a court order  
4 following a hearing, the court order must include specific  
5 instructions that direct the release of the child from such  
6 placement no later than 5 p.m. on the last day of the  
7 detention period specified in paragraph (5)(b) or paragraph  
8 (5)(c), or subparagraph (10)(a)1., whichever is applicable,  
9 unless the requirements of such applicable provision have been  
10 met or an order of continuance has been granted pursuant to  
11 paragraph (5)(d).

12 (4) The court shall order the delivery of a child to a  
13 jail or other facility intended or used for the detention of  
14 adults:

15 (a) When the child has been transferred or indicted  
16 for criminal prosecution as an adult pursuant to this part,  
17 except that the court may not order or allow a child alleged  
18 to have committed a misdemeanor who is being transferred for  
19 criminal prosecution pursuant to either s. 985.226 or s.  
20 985.227 to be detained or held in a jail or other facility  
21 intended or used for the detention of adults; however, such  
22 child may be held temporarily in a detention facility; or

23 (b) When a child taken into custody in this state is  
24 wanted by another jurisdiction for prosecution as an adult.

25  
26 The child shall be housed separately from adult inmates to  
27 prohibit a child from having regular contact with incarcerated  
28 adults, including trustees. "Regular contact" means sight and  
29 sound contact. Separation of children from adults shall permit  
30 no more than haphazard or accidental contact. The receiving  
31 jail or other facility shall contain a separate section for

1 children and shall have an adequate staff to supervise and  
2 monitor the child's activities at all times. Supervision and  
3 monitoring of children includes physical observation and  
4 documented checks by jail or receiving facility supervisory  
5 personnel at intervals not to exceed 15 minutes. This  
6 paragraph does not prohibit placing two or more children in  
7 the same cell. Under no circumstances shall a child be placed  
8 in the same cell with an adult.

9           Section 14. For the purpose of incorporating the  
10 amendment made by this act to section 985.215, Florida  
11 Statutes, in a reference thereto, subsection (1) of section  
12 985.208, Florida Statutes, is reenacted to read:

13           985.208 Detention of furloughed child or escapee on  
14 authority of the department.--

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

30           Section 15. For the purpose of incorporating the  
31 amendment made by this act to section 985.215, Florida

1 Statutes, in a reference thereto, subsection (5) of section  
2 985.219, Florida Statutes, is reenacted to read:

3 985.219 Process and service.--

4 (5) If the petition alleges that the child has  
5 committed a delinquent act or violation of law and the judge  
6 deems it advisable to do so, pursuant to the criteria of s.  
7 985.215, the judge may, by endorsement upon the summons and  
8 after the entry of an order in which valid reasons are  
9 specified, order the child to be taken into custody  
10 immediately, and in such case the person serving the summons  
11 shall immediately take the child into custody.

12 Section 16. Paragraph (b) of subsection (2) of section  
13 985.213, Florida Statutes, is amended to read:

14 985.213 Use of detention.--

15 (2)

16 (b)1. The risk assessment instrument for detention  
17 care placement determinations and orders shall be developed by  
18 the Department of Juvenile Justice in agreement with  
19 representatives appointed by the following associations: the  
20 Conference of Circuit Judges of Florida, the Prosecuting  
21 Attorneys Association, and the Public Defenders Association.  
22 Each association shall appoint two individuals, one  
23 representing an urban area and one representing a rural area.  
24 The parties involved shall evaluate and revise the risk  
25 assessment instrument as is considered necessary using the  
26 method for revision as agreed by the parties. The risk  
27 assessment instrument shall take into consideration, but need  
28 not be limited to, prior history of failure to appear, prior  
29 offenses, offenses committed pending adjudication, any  
30 unlawful possession of a firearm, theft of a motor vehicle or  
31 possession of a stolen motor vehicle, and community control

1 status at the time the child is taken into custody. The risk  
2 assessment instrument shall also take into consideration  
3 appropriate aggravating and mitigating circumstances, and  
4 shall be designed to target a narrower population of children  
5 than s. 985.215(2). The risk assessment instrument shall also  
6 include any information concerning the child's history of  
7 abuse and neglect. The risk assessment shall indicate whether  
8 detention care is warranted, and, if detention care is  
9 warranted, whether the child should be placed into secure,  
10 nonsecure, or home detention care.

11 2. If, at the detention hearing, the court finds a  
12 material error in the scoring of the risk assessment  
13 instrument, the court may amend the score to reflect factual  
14 accuracy.

15 3. A child who is charged with committing an offense  
16 of domestic violence as defined in s. 741.28(1) and who does  
17 not meet detention criteria may be held in secure detention if  
18 the court makes specific written findings that:

19 a. The offense of domestic violence which the child is  
20 charged with committing caused physical injury to the victim;

21 b. Respite care for the child is not available; and

22 c. It is necessary to place the child in secure  
23 detention in order to protect the victim from further injury.

24

25 The child may not be held in secure detention under this  
26 subparagraph for more than 48 hours unless ordered by the  
27 court. After 48 hours, the court shall hold a hearing if the  
28 state attorney or victim requests that secure detention be  
29 continued. The child may continue to be held in secure  
30 detention if the court makes a specific, written finding that  
31 secure detention is necessary to protect the victim from

1 further injury. However, the child may not be held in secure  
2 detention beyond the time limits set forth in s. 985.215 or s.  
3 985.2155 ~~39.044~~.

4 Section 17. Paragraph (a) of subsection (1) of section  
5 985.231, Florida Statutes, is amended to read:

6 985.231 Powers of disposition in delinquency cases.--

7 (1)(a) The court that has jurisdiction of an  
8 adjudicated delinquent child may, by an order stating the  
9 facts upon which a determination of a sanction and  
10 rehabilitative program was made at the disposition hearing:

11 1. Place the child in a community control program or  
12 an aftercare program under the supervision of an authorized  
13 agent of the Department of Juvenile Justice or of any other  
14 person or agency specifically authorized and appointed by the  
15 court, whether in the child's own home, in the home of a  
16 relative of the child, or in some other suitable place under  
17 such reasonable conditions as the court may direct. A  
18 community control program for an adjudicated delinquent child  
19 must include a penalty component such as restitution in money  
20 or in kind, community service, a curfew, revocation or  
21 suspension of the driver's license of the child, or other  
22 nonresidential punishment appropriate to the offense and must  
23 also include a rehabilitative program component such as a  
24 requirement of participation in substance abuse treatment or  
25 in school or other educational program.

26 a. A restrictiveness level classification scale for  
27 levels of supervision shall be provided by the department,  
28 taking into account the child's needs and risks relative to  
29 community control supervision requirements to reasonably  
30 ensure the public safety. Community control programs for  
31 children shall be supervised by the department or by any other

1 person or agency specifically authorized by the court. These  
2 programs must include, but are not limited to, structured or  
3 restricted activities as described in this subparagraph, and  
4 shall be designed to encourage the child toward acceptable and  
5 functional social behavior. If supervision or a program of  
6 community service is ordered by the court, the duration of  
7 such supervision or program must be consistent with any  
8 treatment and rehabilitation needs identified for the child  
9 and may not exceed the term for which sentence could be  
10 imposed if the child were committed for the offense, except  
11 that the duration of such supervision or program for an  
12 offense that is a misdemeanor of the second degree, or is  
13 equivalent to a misdemeanor of the second degree, may be for a  
14 period not to exceed 6 months. When restitution is ordered by  
15 the court, the amount of restitution may not exceed an amount  
16 the child and the parent or guardian could reasonably be  
17 expected to pay or make. A child who participates in any work  
18 program under this part is considered an employee of the state  
19 for purposes of liability, unless otherwise provided by law.

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

27         c. If the conditions of the community control program  
28 or the aftercare program are violated, the agent supervising  
29 the program as it relates to the child involved, or the state  
30 attorney, may bring the child before the court on a petition  
31 alleging a violation of the program. Any child who violates

1 the conditions of community control or aftercare must be  
2 brought before the court if sanctions are sought. A child  
3 taken into custody under s. 985.207 ~~39.037~~ for violating the  
4 conditions of community control or aftercare shall be held in  
5 a consequence unit if such a unit is available. The child  
6 shall be afforded a hearing within 24 hours after being taken  
7 into custody to determine the existence of probable cause that  
8 the child violated the conditions of community control or  
9 aftercare. A consequence unit is a secure facility  
10 specifically designated by the department for children who are  
11 taken into custody under s. 985.207 for violating community  
12 control or aftercare, or who have been found by the court to  
13 have violated the conditions of community control or  
14 aftercare. If the violation involves a new charge of  
15 delinquency, the child may be detained under s. 985.215 in a  
16 facility other than a consequence unit. If the child is not  
17 eligible for detention for the new charge of delinquency, the  
18 child may be held in the consequence unit pending a hearing  
19 and is subject to the time limitations specified in s.  
20 985.215. If the child denies violating the conditions of  
21 community control or aftercare, the court shall appoint  
22 counsel to represent the child at the child's request. Upon  
23 the child's admission, or if the court finds after a hearing  
24 that the child has violated the conditions of community  
25 control or aftercare, the court shall enter an order revoking,  
26 modifying, or continuing community control or aftercare. In  
27 each such case, the court shall enter a new disposition order  
28 and, in addition to the sanctions set forth in this paragraph,  
29 may impose any sanction the court could have imposed at the  
30 original disposition hearing. If the child is found to have  
31

1 violated the conditions of community control or aftercare, the  
2 court may:

3 (I) Place the child in a consequence unit in that  
4 judicial circuit, if available, for up to 5 days for a first  
5 violation, and up to 15 days for a second or subsequent  
6 violation.

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

10 (III) Modify or continue the child's community control  
11 program or aftercare program.

12 (IV) Revoke community control or aftercare and commit  
13 the child to the department.

14 d. Notwithstanding s. 743.07 and paragraph (d), and  
15 except as provided in s. 985.31, the term of any order placing  
16 a child in a community control program must be until the  
17 child's 19th birthday unless he or she is released by the  
18 court, on the motion of an interested party or on its own  
19 motion.

20 2. Commit the child to a licensed child-caring agency  
21 willing to receive the child, ~~but~~ The court may not commit  
22 the child to a jail or to a facility used primarily as a  
23 detention center or facility or shelter unless otherwise  
24 provided by law.

25 3. Commit the child to the Department of Juvenile  
26 Justice at a restrictiveness level defined in s. 985.03(45).  
27 Such commitment must be for the purpose of exercising active  
28 control over the child, including, but not limited to,  
29 custody, care, training, urine monitoring, and treatment of  
30 the child and furlough of the child into the community.  
31 Notwithstanding s. 743.07 and paragraph (d), and except as

1 provided in s. 985.31, the term of the commitment must be  
2 until the child is discharged by the department or until he or  
3 she reaches the age of 21.

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

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

10           6. As part of the community control program to be  
11 implemented by the Department of Juvenile Justice, or, in the  
12 case of a committed child, as part of the community-based  
13 sanctions ordered by the court at the disposition hearing or  
14 before the child's release from commitment, order the child to  
15 make restitution in money, through a promissory note cosigned  
16 by the child's parent or guardian, or in kind for any damage  
17 or loss caused by the child's offense in a reasonable amount  
18 or manner to be determined by the court. The clerk of the  
19 circuit court shall be the receiving and dispensing agent. In  
20 such case, the court shall order the child or the child's  
21 parent or guardian to pay to the office of the clerk of the  
22 circuit court an amount not to exceed the actual cost incurred  
23 by the clerk as a result of receiving and dispensing  
24 restitution payments. The clerk shall notify the court if  
25 restitution is not made, and the court shall take any further  
26 action that is necessary against the child or the child's  
27 parent or guardian. A finding by the court, after a hearing,  
28 that the parent or guardian has made diligent and good faith  
29 efforts to prevent the child from engaging in delinquent acts  
30 absolves the parent or guardian of liability for restitution  
31 under this subparagraph.

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

6           8. Commit the child to the Department of Juvenile  
7 Justice for placement in a program or facility for serious or  
8 habitual juvenile offenders in accordance with s. 985.31. Any  
9 commitment of a child to a program or facility for serious or  
10 habitual juvenile offenders must be for an indeterminate  
11 period of time, but the time may not exceed the maximum term  
12 of imprisonment that an adult may serve for the same offense.  
13 The court may retain jurisdiction over such child until the  
14 child reaches the age of 21, specifically for the purpose of  
15 the child completing the program.

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

26           10. Subject to specific appropriation, commit the  
27 juvenile sexual offender to the Department of Juvenile Justice  
28 for placement in a program or facility for juvenile sexual  
29 offenders in accordance with s. 985.308. Any commitment of a  
30 juvenile sexual offender to a program or facility for juvenile  
31 sexual offenders must be for an indeterminate period of time,

1 but the time may not exceed the maximum term of imprisonment  
2 that an adult may serve for the same offense. The court may  
3 retain jurisdiction over a juvenile sexual offender until the  
4 juvenile sexual offender reaches the age of 21, specifically  
5 for the purpose of completing the program.

6 Section 18. Section 985.2155, Florida Statutes, is  
7 created to read:

8 985.2155 Violations of supervision; failure to  
9 appear.--Notwithstanding s. 985.215, if a juvenile fails to  
10 appear for an arraignment for a violation of supervision or  
11 for a hearing on the violation of supervision, and if the  
12 hearing on the violation is set within 14 days at the  
13 detention hearing for the failure to appear, the juvenile may  
14 be detained for a maximum of 14 days while awaiting a hearing,  
15 unless the juvenile otherwise qualifies for a longer period of  
16 detention.

17 Section 19. Subsection (6) of section 985.218, Florida  
18 Statutes, is repealed.

19 Section 20. Subsection (2) of section 985.226, Florida  
20 Statutes, is amended to read:

21 985.226 Criteria for waiver of juvenile court  
22 jurisdiction; hearing on motion to transfer for prosecution as  
23 an adult.--

24 (1) VOLUNTARY WAIVER.--The court shall transfer and  
25 certify a child's criminal case for trial as an adult if the  
26 child is alleged to have committed a violation of law and,  
27 prior to the commencement of an adjudicatory hearing, the  
28 child, joined by a parent or, in the absence of a parent, by  
29 the guardian or guardian ad litem, demands in writing to be  
30 tried as an adult. Once a child has been transferred for  
31 criminal prosecution pursuant to a voluntary waiver hearing

1 and has been found to have committed the presenting offense or  
2 a lesser included offense, the child shall be handled  
3 thereafter in every respect as an adult for any subsequent  
4 violation of state law, unless the court imposes juvenile  
5 sanctions under s. 985.233(4)(b).

6 (2) INVOLUNTARY WAIVER.--

7 (a) Discretionary ~~involuntary~~ waiver.--Except as  
8 provided in paragraph (b), the state attorney may file a  
9 motion requesting the court to transfer the child for criminal  
10 prosecution if the child was 14 years of age or older at the  
11 time the alleged delinquent act or violation of law was  
12 committed.

13 (b) Mandatory waiver.--

14 1. If the child was 14 years of age or older; and if  
15 the child has been previously adjudicated delinquent for an  
16 act classified as a felony, which adjudication was for the  
17 commission of, or attempt to commit, murder, sexual battery,  
18 armed or strong-armed robbery, carjacking, home-invasion  
19 robbery, aggravated battery, or aggravated assault, and the  
20 child is currently charged with a second or subsequent violent  
21 crime against a person; or, the state attorney shall file a  
22 motion requesting the court to transfer and certify the  
23 juvenile for prosecution as an adult, or proceed pursuant to  
24 s. 985.227(1).

25 ~~2.(b) Mandatory involuntary waiver.--~~If the child was  
26 14 years of age or older at the time of commission of a fourth  
27 or subsequent alleged felony offense and the child was  
28 previously adjudicated delinquent or had adjudication withheld  
29 for or was found to have committed, or to have attempted or  
30 conspired to commit, three offenses that are felony offenses  
31 if committed by an adult, and one or more of such felony

1 offenses involved the use or possession of a firearm or  
2 violence against a person;7  
3  
4 the state attorney shall request the court to transfer and  
5 certify the child for prosecution as an adult or shall provide  
6 written reasons to the court for not making such request, or  
7 proceed pursuant to s. 985.227(1). Upon the state attorney's  
8 request, the court shall either enter an order transferring  
9 the case and certifying the case for trial as if the child  
10 were an adult or provide written reasons for not issuing such  
11 an order.

12 (4) EFFECT OF ORDER WAIVING JURISDICTION.--If the  
13 court finds, after a waiver hearing under subsection (3), that  
14 a juvenile who was 14 years of age or older at the time the  
15 alleged violation of state law was committed should be charged  
16 and tried as an adult, the court shall enter an order  
17 transferring the case and certifying the case for trial as if  
18 the child were an adult. The child shall thereafter be subject  
19 to prosecution, trial, and sentencing as if the child were an  
20 adult but subject to the provisions of s. 985.233. Once a  
21 child has been transferred for criminal prosecution pursuant  
22 to an involuntary waiver hearing and has been found to have  
23 committed the presenting offense or a lesser included offense,  
24 the child shall thereafter be handled in every respect as an  
25 adult for any subsequent violation of state law, unless the  
26 court imposes juvenile sanctions under s. 985.233.

27 Section 21. Subsections (1), (2), (3), and (4) of  
28 section 985.227, Florida Statutes, are amended, and new  
29 subsection (5) is added to said section, to read:

30 985.227 Prosecution of juveniles as adults by the  
31 direct filing of an information in the criminal division of

1 the circuit court; discretionary criteria; mandatory  
2 criteria.--  
3 (1) DISCRETIONARY DIRECT FILE; CRITERIA.--  
4 (a) With respect to any child who was 14 or 15 years  
5 of age at the time the alleged offense was committed, the  
6 state attorney may file an information when in the state  
7 attorney's judgment and discretion the public interest  
8 requires that adult sanctions be considered or imposed and  
9 when the offense charged is for the commission of, or attempt  
10 to commit:  
11 1. Arson;  
12 2. Sexual battery;  
13 3. Robbery;  
14 4. Kidnapping;  
15 5. Aggravated child abuse;  
16 6. Aggravated assault;  
17 7. Aggravated stalking;  
18 8. Murder;  
19 9. Manslaughter;  
20 10. Unlawful throwing, placing, or discharging of a  
21 destructive device or bomb;  
22 11. Armed burglary in violation of s. 810.02(2)(b) or  
23 specified burglary of a dwelling or structure in violation of  
24 s. 810.02(2)(c);  
25 12. Aggravated battery;  
26 13. Lewd or lascivious assault or act in the presence  
27 of a child;  
28 14. Carrying, displaying, using, threatening, or  
29 attempting to use a weapon or firearm during the commission of  
30 a felony; or  
31 15. Grand theft in violation of s. 812.014(2)(a).

1           (b) Except as provided in subsection (2),with respect  
2 to any child who was 16 or 17 years of age at the time the  
3 alleged offense was committed, the state attorney may file an  
4 information when in the state attorney's judgment and  
5 discretion the public interest requires that adult sanctions  
6 be considered or imposed. Except as provided in subsection  
7 (2),~~However,~~the state attorney may not file an information  
8 on a child charged with a misdemeanor, unless the child has  
9 had at least two previous adjudications or adjudications  
10 withheld for delinquent acts, one of which involved an offense  
11 classified as a felony under state law.

12           (2) MANDATORY DIRECT FILE.--

13           (a) With respect to any child who was 16 or 17 years  
14 of age at the time the alleged offense was committed, the  
15 state attorney shall file an information if the child has been  
16 previously adjudicated delinquent for an act classified as a  
17 felony, which adjudication was for the commission of, or  
18 attempt to commit,murder, sexual battery, armed or  
19 strong-armed robbery, carjacking, home-invasion robbery,  
20 aggravated battery, or aggravated assault, and the child is  
21 currently charged with a second or subsequent violent crime  
22 against a person.

23           (b) The state attorney must file an information  
24 charging a person as an adult for an offense committed by any  
25 child if the child is 16 years of age or older at the time of  
26 the offense that would be a misdemeanor or a felony, if  
27 committed by an adult, and either:

28           1. The child has received adjudications of delinquency  
29 or withholdings of adjudication of delinquency for three acts  
30 that would be felonies if committed by an adult; or  
31

1           2. The child has received adjudications of delinquency  
2 or withholdings of adjudication of delinquency for six acts  
3 that would be either felonies or misdemeanors if committed by  
4 an adult. For purposes of this subparagraph, a violation of  
5 community control or other supervision which is not based  
6 solely on a new delinquent act shall be counted as though it  
7 were a separate, additional misdemeanor offense.

8  
9 However, an act shall not be counted as an additional act  
10 under this paragraph if it occurred within 45 days of another  
11 act that is counted towards the maximum number of offenses  
12 under this paragraph that a juvenile may commit before adult  
13 sanctions must be imposed. Multiple counts within a case shall  
14 be considered one offense for the purposes of this paragraph.  
15 ~~Notwithstanding subsection (1), regardless of the child's age~~  
16 ~~at the time the alleged offense was committed, the state~~  
17 ~~attorney must file an information with respect to any child~~  
18 ~~who previously has been adjudicated for offenses which, if~~  
19 ~~committed by an adult, would be felonies and such~~  
20 ~~adjudications occurred at three or more separate delinquency~~  
21 ~~adjudicatory hearings, and three of which resulted in~~  
22 ~~residential commitments as defined in s. 985.03(45).~~

23           (c) The state attorney must file an information if a  
24 child, regardless of the child's age at the time the alleged  
25 offense was committed, is alleged to have committed an act  
26 that would be a violation of law if the child were an adult,  
27 that involves stealing a motor vehicle, including, but not  
28 limited to, a violation of s. 812.133, relating to carjacking,  
29 or s. 812.014(2)(c)6., relating to grand theft of a motor  
30 vehicle, and while the child was in possession of the stolen  
31 motor vehicle the child caused serious bodily injury to or the

1 death of a person who was not involved in the underlying  
2 offense. For purposes of this section, the driver and all  
3 willing passengers in the stolen motor vehicle at the time  
4 such serious bodily injury or death is inflicted shall also be  
5 subject to mandatory transfer to adult court. "Stolen motor  
6 vehicle," for the purposes of this section, means a motor  
7 vehicle that has been the subject of any criminal wrongful  
8 taking. For purposes of this section, "willing passengers"  
9 means all willing passengers who have participated in the  
10 underlying offense.

11 (3) EFFECT OF DIRECT FILE.--

12 (a) Once a child has been transferred for criminal  
13 prosecution pursuant to an information and has been found to  
14 have committed the presenting offense or a lesser included  
15 offense, the child shall be handled thereafter in every  
16 respect as if an adult for any subsequent violation of state  
17 law, unless the court imposes juvenile sanctions under s.  
18 985.233.

19 (b) When a child is transferred for criminal  
20 prosecution as an adult, the court shall immediately transfer  
21 and certify to the circuit ~~appropriate~~ court all felony  
22 ~~preadjudicatory~~ cases that have not yet resulted in a plea, or  
23 in an adjudicatory hearing where a finding of guilt has been  
24 made, that pertain to that child ~~which are pending in juvenile~~  
25 ~~court, including, but not limited to, all cases involving~~  
26 ~~offenses that occur or are referred between the date of~~  
27 ~~transfer and sentencing in adult court and all outstanding~~  
28 ~~juvenile disposition orders. The juvenile court shall make~~  
29 ~~every effort to dispose of all predispositional cases and~~  
30 ~~transfer those cases to the adult court prior to adult~~  
31 ~~sentencing. It is the intent of the Legislature to require all~~

1 ~~cases occurring prior to the sentencing hearing in adult court~~  
2 ~~to be handled by the adult court for final resolution with the~~  
3 ~~original transfer case.~~

4 (c) When a child has been transferred for criminal  
5 prosecution as an adult and has been found to have committed a  
6 violation of state law, the disposition of the case may be  
7 made under s. 985.233 and may include the enforcement of any  
8 restitution ordered in any juvenile proceeding.

9 (4) DIRECT-FILE POLICIES AND GUIDELINES.--Each state  
10 attorney shall develop ~~and annually update~~ written policies  
11 and guidelines to govern determinations for filing an  
12 information on a juvenile, to be submitted to the Executive  
13 Office of the Governor, the President of the Senate, the  
14 Speaker of the House of Representatives, and the Juvenile  
15 Justice Advisory Board not later than January 1 of each year.

16 (5) An information filed pursuant to this section may  
17 include all charges that are based on the same act, criminal  
18 episode, or transaction as the primary offenses.

19 Section 22. Subsection (4) of section 985.233, Florida  
20 Statutes, is amended to read:

21 985.233 Sentencing powers; procedures; alternatives  
22 for juveniles prosecuted as adults.--

23 (4) SENTENCING ALTERNATIVES.--

24 (a) Sentencing to adult sanctions.--

25 1. Cases prosecuted on indictment.--If the child is  
26 found to have committed the offense punishable by death or  
27 life imprisonment, the child shall be sentenced as an adult.  
28 If the juvenile is not found to have committed the indictable  
29 offense but is found to have committed a lesser included  
30 offense or any other offense for which he or she was indicted

31

1 as a part of the criminal episode, the court may sentence as  
2 follows:  
3 a. As an adult ~~pursuant to this section;~~  
4 b. By withholding adjudication of guilt, and placing  
5 the child on probation or community control to be supervised  
6 by the Department of Corrections. Such probation or community  
7 control may include a special condition requiring the child to  
8 successfully complete a commitment program as recommended by  
9 the Department of Juvenile Justice. A judge in adult court  
10 shall have the authority to access the commitment programs of  
11 the Department of Juvenile Justice for purposes of imposing a  
12 sentence under this paragraph. A juvenile shall not be  
13 required to report or pay supervision costs to the Department  
14 of Corrections while participating in a commitment program of  
15 the Department of Juvenile Justice;  
16 ~~c.b. Pursuant to chapter 958, notwithstanding any~~  
17 ~~other provision of that chapter to the contrary; or~~  
18 ~~d.c. As a juvenile pursuant to this section.~~  
19 2. Other cases.--If a child who has been transferred  
20 for criminal prosecution pursuant to information or waiver of  
21 juvenile court jurisdiction is found to have committed a  
22 violation of state law or a lesser included offense for which  
23 he or she was charged as a part of the criminal episode, the  
24 court may sentence as follows:  
25 a. As an adult ~~pursuant to this section;~~  
26 b. By withholding adjudication of guilt, and placing  
27 the child on probation or community control to be supervised  
28 by the Department of Corrections. Such probation or community  
29 control may include a special condition requiring the child to  
30 successfully complete a commitment program as recommended by  
31 the Department of Juvenile Justice. A judge in adult court

1 shall have the authority to access the commitment programs of  
2 the Department of Juvenile Justice for purposes of imposing a  
3 sentence under this paragraph. A juvenile shall not be  
4 required to report or pay supervision costs to the Department  
5 of Corrections while participating in a commitment program of  
6 the Department of Juvenile Justice;

7 ~~c.b.~~ Pursuant to chapter 958, ~~notwithstanding any~~  
8 ~~other provision of that chapter to the contrary; or~~

9 ~~d.c.~~ As a juvenile pursuant to this section.

10 3. Notwithstanding any other provision to the  
11 contrary, if the state attorney is required to file a motion  
12 to transfer and certify the juvenile for prosecution as an  
13 adult pursuant to s. 985.226(2)(b) and that motion is granted,  
14 or if the state attorney is required to file an information  
15 pursuant to s. 985.227(2)(a) or (b), the court may not impose  
16 juvenile sanctions, withhold adjudication of guilt, or impose  
17 a sentence pursuant to subparagraph 1.b. or subparagraph 2.b.

18 ~~4.3.~~ Any sentence imposing adult sanctions is presumed  
19 appropriate, and the court is not required to set forth  
20 specific findings or enumerate the criteria in this subsection  
21 as any basis for its decision to impose adult sanctions.

22 ~~5.4.~~ When a child has been transferred for criminal  
23 prosecution as an adult and has been found to have committed a  
24 violation of state law, the disposition of the case may  
25 include the enforcement of any restitution ordered in any  
26 juvenile proceeding.

27 (b) Sentencing to juvenile sanctions.--For juveniles  
28 transferred to adult court but who do not qualify for such  
29 transfer pursuant to s. 985.226(2)(b) or s. 985.227(2)(a) or  
30 (b), the court may impose juvenile sanctions under this  
31 paragraph. The court shall ~~in order to use this paragraph, the~~

1 ~~court shall stay adjudication of guilt and instead shall~~  
2 ~~adjudge the child to have committed a delinquent act.~~  
3 ~~Adjudication of delinquency shall not be deemed a conviction,~~  
4 ~~nor shall it operate to impose any of the civil disabilities~~  
5 ~~ordinarily resulting from a conviction. The court shall impose~~  
6 ~~an adult sanction or a juvenile sanction and may not sentence~~  
7 ~~the child to a combination of adult and juvenile punishments.~~  
8 ~~An adult sanction or a juvenile sanction may include~~  
9 ~~enforcement of an order of restitution or community control~~  
10 ~~previously ordered in any juvenile proceeding. However, if the~~  
11 ~~court imposes a juvenile sanction and the department~~  
12 ~~determines that the sanction is unsuitable for the child, the~~  
13 ~~department shall return custody of the child to the sentencing~~  
14 ~~court for further proceedings, including the imposition of~~  
15 ~~adult sanctions. Upon adjudicating a child delinquent under~~  
16 ~~subsection (1), the court may:~~

17         1. Place the child in a community control program  
18 under the supervision of the department for an indeterminate  
19 period of time until the child reaches the age of 19 years or  
20 sooner if discharged by order of the court.

21         2. Commit the child to the department for treatment in  
22 an appropriate program for children for an indeterminate  
23 period of time until the child is 21 or sooner if discharged  
24 by the department. The department shall notify the court of  
25 its intent to discharge no later than 14 days prior to  
26 discharge. Failure of the court to timely respond to the  
27 department's notice shall be considered approval for  
28 discharge.

29         3. Order disposition pursuant to s. 985.231 as an  
30 alternative to youthful offender or adult sentencing if the  
31

1 court determines not to impose youthful offender or adult  
2 sanctions.

3 (c) Imposition of adult sanctions upon failure of  
4 juvenile sanctions.--If a child proves not to be suitable to a  
5 community control program or for a treatment program under the  
6 provisions of subparagraph (b)2., the court may revoke the  
7 previous adjudication, impose an adjudication of guilt,  
8 classify the child as a youthful offender when appropriate,  
9 and impose any sentence which it may lawfully impose, giving  
10 credit for all time spent by the child in the department.

11 (d) Recoupment of cost of care in juvenile justice  
12 facilities.--When the court orders commitment of a child to  
13 the Department of Juvenile Justice for treatment in any of the  
14 department's programs for children, the court shall order the  
15 natural or adoptive parents of such child, the natural father  
16 of such child born out of wedlock who has acknowledged his  
17 paternity in writing before the court, or guardian of such  
18 child's estate, if possessed of assets which under law may be  
19 disbursed for the care, support, and maintenance of the child,  
20 to pay fees to the department equal to the actual cost of the  
21 care, support, and maintenance of the child, unless the court  
22 determines that the parent or legal guardian of the child is  
23 indigent. The court may reduce the fees or waive the fees upon  
24 a showing by the parent or guardian of an inability to pay the  
25 full cost of the care, support, and maintenance of the child.  
26 In addition, the court may waive the fees if it finds that the  
27 child's parent or guardian was the victim of the child's  
28 delinquent act or violation of law or if the court finds that  
29 the parent or guardian has made a diligent and good faith  
30 effort to prevent the child from engaging in the delinquent  
31 act or violation of law. When the order affects the

1 guardianship estate, a certified copy of the order shall be  
2 delivered to the judge having jurisdiction of the guardianship  
3 estate.

4 (e) Further proceedings heard in adult court.--When a  
5 child is sentenced to juvenile sanctions, further proceedings  
6 involving those sanctions shall continue to be heard in the  
7 adult court.

8 (f) Scope of sanction; custody return to sentencing  
9 court.--An adult sanction or a juvenile sanction may include  
10 enforcement of an order of restitution or community control  
11 previously ordered in any juvenile proceeding. However, if the  
12 court imposes a juvenile sanction and the department  
13 determines that the sanction is unsuitable for the child, the  
14 department shall return custody of the child to the sentencing  
15 court for further proceedings, including the imposition of  
16 adult sanctions.

17  
18 It is the intent of the Legislature that the criteria and  
19 guidelines in this subsection are mandatory and that a  
20 determination of disposition under this subsection is subject  
21 to the right of the child to appellate review under s.  
22 985.234.

23 Section 23. For the purpose of incorporating the  
24 amendment made by this act to section 985.233, Florida  
25 Statutes, in references thereto, subsections (3) and (4) of  
26 section 985.225, Florida Statutes, are reenacted to read:

27 985.225 Indictment of a juvenile.--

28 (3) If the child is found to have committed the  
29 offense punishable by death or by life imprisonment, the child  
30 shall be sentenced as an adult. If the juvenile is not found  
31 to have committed the indictable offense but is found to have

1 committed a lesser included offense or any other offense for  
2 which he or she was indicted as a part of the criminal  
3 episode, the court may sentence pursuant to s. 985.233.

4 (4) Once a child has been indicted pursuant to this  
5 subsection and has been found to have committed any offense  
6 for which he or she was indicted as a part of the criminal  
7 episode, the child shall be handled thereafter in every  
8 respect as if an adult for any subsequent violation of state  
9 law, unless the court imposes juvenile sanctions under s.  
10 985.233.

11 Section 24. For the purpose of incorporating the  
12 amendment made by this act to section 985.233, Florida  
13 Statutes, in a reference thereto, paragraph (k) of subsection  
14 (3) of section 985.31, Florida Statutes, is reenacted to read:

15 985.31 Serious or habitual juvenile offender.--

16 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
17 TREATMENT.--

18 (k) Any commitment of a child to the department for  
19 placement in a serious or habitual juvenile offender program  
20 or facility shall be for an indeterminate period of time, but  
21 the time shall not exceed the maximum term of imprisonment  
22 which an adult may serve for the same offense. Notwithstanding  
23 the provisions of ss. 743.07 and 985.231(1)(d), a serious or  
24 habitual juvenile offender shall not be held under commitment  
25 from a court pursuant to this section, s. 985.231, or s.  
26 985.233 after becoming 21 years of age. This provision shall  
27 apply only for the purpose of completing the serious or  
28 habitual juvenile offender program pursuant to this chapter  
29 and shall be used solely for the purpose of treatment.

30 Section 25. Subsections (3) and (6) of section  
31 985.309, Florida Statutes, are amended to read:

1           985.309 Boot camp for children.--

2           (3) A child may be placed in a boot camp program if he  
3 or she is at least 14 years of age and has not entered a plea  
4 of guilty or nolo contendere to, or been adjudicated of,~~but~~  
5 ~~less than 18 years of age at the time of adjudication and has~~  
6 ~~been committed to the department for any offense that, if~~  
7 ~~committed by an adult, would be a felony, other than a capital~~  
8 ~~felony, a life felony, or a violent felony of the first~~  
9 ~~degree. A child may be placed in an early-intervention boot~~  
10 ~~camp program if he or she is at least 12 years of age, has not~~  
11 ~~entered a plea of guilty or nolo contendere to, or been~~  
12 ~~adjudicated of, a capital felony, a life felony, or a violent~~  
13 ~~felony of the first degree, and otherwise qualifies pursuant~~  
14 ~~to paragraph (6)(c).~~

15           (6) A boot camp operated by the department, a county,  
16 or a municipality must provide for the following minimum  
17 periods of participation:

18           (a) A participant in a low-risk residential program  
19 must spend at least 2 months in the boot camp component of the  
20 program and at least 2 months in aftercare.

21           (b) A participant in a moderate-risk residential  
22 program must spend at least 4 months in the boot camp  
23 component of the program and at least 4 months in aftercare.

24           (c) The department, a county, or a municipality may  
25 operate an early-intervention boot camp program consisting of  
26 at least a 10-day residential boot camp component, followed by  
27 at least 2 months in aftercare. The purpose of an  
28 early-intervention boot camp program is to discourage young  
29 offenders from having further contact with the criminal  
30 justice system through emphasis on intensive educational and  
31 physical training, discipline, and personal responsibility.

1 Any participation in an early-intervention boot camp,  
2 regardless of whether the juvenile successfully completes it,  
3 automatically disqualifies a juvenile from future  
4 participation in an early-intervention boot camp. A  
5 participant in an early-intervention boot camp program may not  
6 have more than two prior cases involving acts that would be  
7 felonies if committed by an adult, nor may a participant in an  
8 early-intervention boot camp program have more than four prior  
9 cases involving any combination of acts that would be either  
10 misdemeanors or felonies if committed by an adult.

11

12 This subsection does not preclude the operation of a program  
13 that requires the participants to spend more than 4 months in  
14 the boot camp component of the program or that requires the  
15 participants to complete two sequential programs of 4 months  
16 each in the boot camp component of the program.

17 Section 26. For the purpose of incorporating the  
18 amendment made by this act to section 985.309, Florida  
19 Statutes, in a reference thereto, paragraph (j) of subsection  
20 (1) of section 985.231, Florida Statutes, is reenacted to  
21 read:

22 985.231 Powers of disposition in delinquency cases.--

23 (1)

24 (j) If the offense committed by the child was grand  
25 theft of a motor vehicle, the court:

26 1. Upon a first adjudication for a grand theft of a  
27 motor vehicle, may place the youth in a boot camp, unless the  
28 child is ineligible pursuant to s. 985.309, and shall order  
29 the youth to complete a minimum of 50 hours of community  
30 service.

31

1           2. Upon a second adjudication for grand theft of a  
2 motor vehicle which is separate and unrelated to the previous  
3 adjudication, may place the youth in a boot camp, unless the  
4 child is ineligible pursuant to s. 985.309, and shall order  
5 the youth to complete a minimum of 100 hours of community  
6 service.

7           3. Upon a third adjudication for grand theft of a  
8 motor vehicle which is separate and unrelated to the previous  
9 adjudications, shall place the youth in a boot camp or other  
10 treatment program, unless the child is ineligible pursuant to  
11 s. 985.309, and shall order the youth to complete a minimum of  
12 250 hours of community service.

13           Section 27. For the purpose of incorporating the  
14 amendment made by this act to section 985.309, Florida  
15 Statutes, in a reference thereto, paragraph (i) of subsection  
16 (3) of section 985.31, Florida Statutes, is reenacted to read:

17           985.31 Serious or habitual juvenile offender.--

18           (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
19 TREATMENT.--

20           (i) The treatment and placement recommendations shall  
21 be submitted to the court for further action pursuant to this  
22 paragraph:

23           1. If it is recommended that placement in a serious or  
24 habitual juvenile offender program or facility is  
25 inappropriate, the court shall make an alternative disposition  
26 pursuant to s. 985.309 or other alternative sentencing as  
27 applicable, utilizing the recommendation as a guide.

28           2. If it is recommended that placement in a serious or  
29 habitual juvenile offender program or facility is appropriate,  
30 the court may commit the child to the department for placement  
31

1 in the restrictiveness level designated for serious or  
2 habitual delinquent children programs.

3 Section 28. For the purpose of incorporating the  
4 amendment made by this act to section 985.309, Florida  
5 Statutes, in a reference thereto, paragraph (i) of subsection  
6 (3) of section 985.311, Florida Statutes, is reenacted to  
7 read:

8 985.311 Intensive residential treatment program for  
9 offenders less than 13 years of age.--

10 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND  
11 TREATMENT.--

12 (i) The treatment and placement recommendations shall  
13 be submitted to the court for further action pursuant to this  
14 paragraph:

15 1. If it is recommended that placement in an intensive  
16 residential treatment program for offenders less than 13 years  
17 of age is inappropriate, the court shall make an alternative  
18 disposition pursuant to s. 985.309 or other alternative  
19 sentencing as applicable, utilizing the recommendation as a  
20 guide.

21 2. If it is recommended that placement in an intensive  
22 residential treatment program for offenders less than 13 years  
23 of age is appropriate, the court may commit the child to the  
24 department for placement in the restrictiveness level  
25 designated for intensive residential treatment program for  
26 offenders less than 13 years of age.

27 Section 29. For the purpose of incorporating the  
28 amendment made by this act to section 985.309, Florida  
29 Statutes, in a reference thereto, paragraph (a) of subsection  
30 (1) of section 985.314, Florida Statutes, is reenacted to  
31 read:

1           985.314 Commitment programs for juvenile felony  
2 offenders.--

3           (1) Notwithstanding any other law and regardless of  
4 the child's age, a child who is adjudicated delinquent, or for  
5 whom adjudication is withheld, for an act that would be a  
6 felony if committed by an adult, shall be committed to:

7           (a) A boot camp program under s. 985.309 if the child  
8 has participated in an early delinquency intervention program  
9 as provided in s. 985.305.

10           Section 30. Subsection (11) of section 985.404,  
11 Florida Statutes, is amended to read:

12           985.404 Administering the juvenile justice  
13 continuum.--

14           (11) The Department of Juvenile Justice in  
15 consultation with the Juvenile Justice Advisory Board and  
16 providers shall develop a cost-benefit model and apply the  
17 model to each commitment program. Program recommitment rates  
18 shall be a component of the model. The cost-benefit model  
19 shall compare program costs to benefits. A report ranking  
20 commitment programs based on cost-benefit shall be submitted  
21 to the appropriate substantive and appropriations committees  
22 of each house of the Legislature, no later than December 31 of  
23 each year. The report must consider at least the following  
24 factors:

25           (a) The recidivism rate measured by whether a juvenile  
26 has been arrested within 1 year of leaving a commitment  
27 program, regardless of whether the commitment program was  
28 successfully completed.

29           (b) The seriousness of the criminal history of the  
30 juveniles in the program.

31           (c) The program's cost-per-client.

1           (d) The average age of the juveniles in the program.

2

3 It is the intent of the Legislature that continual development  
4 efforts take place to improve the validity and reliability of  
5 the cost-benefit model.

6           Section 31. This act shall take effect July 1 of the  
7 year in which enacted.

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LEGISLATIVE SUMMARY

11

12 Provides that certain adjudications of delinquency are  
13 admissible into evidence for impeachment purposes.  
14 Revises or enacts various provisions in parts I, II, III,  
15 and IV of chapter 985, F.S., relating to general  
16 provisions, delinquency case proceedings, the juvenile  
17 justice continuum, and juvenile justice system  
18 administration, respectively. Revises provisions in  
19 chapter 921, F.S., relating to sentencing of persons with  
20 juvenile records and juveniles prosecuted as adults.  
21 Revises provisions in chapter 943, F.S., relating to  
22 criminal history records of minors. (See bill for  
23 details.)

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