

By the Committee on Criminal Justice and Senators Scott and Campbell

307-2012-99

1                                   A bill to be entitled  
 2           An act relating to juvenile justice; amending  
 3           s. 985.211, F.S.; requiring a probable cause  
 4           affidavit or written report to be made within a  
 5           time certain; requiring such affidavit or  
 6           report to be filed with the clerk of circuit  
 7           court within a time certain; amending s.  
 8           985.213, F.S.; creating a workgroup to study  
 9           the effectiveness of the risk assessment  
 10          instrument; providing for a report; providing  
 11          for future repeal of provisions relating to  
 12          creation and use of the instrument; amending s.  
 13          985.215, F.S.; providing for increased holding  
 14          times for children charged with offenses of  
 15          certain severity; requiring arresting law  
 16          enforcement agencies to present certain  
 17          information to the state; providing an  
 18          effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Subsections (3), (4), and (6) of section  
 23 985.211, Florida Statutes, 1998 Supplement, are amended to  
 24 read:

25           985.211 Release or delivery from custody.--  
 26           (3) If the child is released, the person taking the  
 27 child into custody shall make a written report or probable  
 28 cause affidavit to the appropriate juvenile probation officer  
 29 within 24 hours after such release ~~3 days~~, stating the facts  
 30 and the reason for taking the child into custody. Such  
 31 written report or probable cause affidavit shall:

1 (a) Identify the child, the parents, guardian, or  
2 legal custodian, and the person to whom the child was  
3 released.

4 (b) Contain sufficient information to establish the  
5 jurisdiction of the court and to make a prima facie showing  
6 that the child has committed a violation of law or a  
7 delinquent act.

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

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

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

26 (6)(a) A copy of the probable cause affidavit or  
27 written report made by the person taking the child into  
28 custody ~~a law enforcement agency~~ shall be filed, by the law  
29 enforcement agency which employs the person making such  
30 affidavit or written report, with the clerk of the circuit  
31 court for the county in which the child is taken into custody

1 or in which the affidavit or report is made within 24 hours  
2 ~~after the child is taken into custody and detained, within 1~~  
3 ~~week after the child is taken into custody and released, or~~  
4 ~~within 1 week~~ after the affidavit or report is made, excluding  
5 Saturdays, Sundays, and legal holidays. Such affidavit or  
6 report is a case for the purpose of assigning a uniform case  
7 number pursuant to this subsection.

8 (b) Upon the filing of a copy of a probable cause  
9 affidavit or written report by a law enforcement agency with  
10 the clerk of the circuit court, the clerk shall immediately  
11 assign a uniform case number to the affidavit or report,  
12 forward a copy to the state attorney, and forward a copy to  
13 the intake office of the department which serves the county in  
14 which the case arose.

15 (c) Each letter of recommendation, written notice,  
16 report, or other paper required by law pertaining to the case  
17 shall bear the uniform case number of the case, and a copy  
18 shall be filed with the clerk of the circuit court by the  
19 issuing agency. The issuing agency shall furnish copies to  
20 the juvenile probation officer and the state attorney.

21 (d) Upon the filing of a petition based on the  
22 allegations of a previously filed probable cause affidavit or  
23 written report, the agency filing the petition shall include  
24 the appropriate uniform case number on the petition.

25 Section 2. Subsection (2) of section 985.213, Florida  
26 Statutes, 1998 Supplement, is amended, and subsection (5) is  
27 added to that section, to read:

28 985.213 Use of detention.--

29 (2)(a) All determinations and court orders regarding  
30 placement of a child into detention care shall comply with all  
31 requirements and criteria provided in this part and shall be

1 based on a risk assessment of the child, unless the child is  
2 placed into detention care as provided in subparagraph (b)3.  
3 This paragraph expires October 1, 2000.

4 (b)1. The risk assessment instrument for detention  
5 care placement determinations and orders shall be developed by  
6 the Department of Juvenile Justice in agreement with  
7 representatives appointed by the following associations: the  
8 Conference of Circuit Judges of Florida, the Prosecuting  
9 Attorneys Association, and the Public Defenders Association.  
10 Each association shall appoint two individuals, one  
11 representing an urban area and one representing a rural area.  
12 The parties involved shall evaluate and revise the risk  
13 assessment instrument as is considered necessary using the  
14 method for revision as agreed by the parties. The risk  
15 assessment instrument shall take into consideration, but need  
16 not be limited to, prior history of failure to appear, prior  
17 offenses, offenses committed pending adjudication, any  
18 unlawful possession of a firearm, theft of a motor vehicle or  
19 possession of a stolen motor vehicle, and community control  
20 status at the time the child is taken into custody. The risk  
21 assessment instrument shall also take into consideration  
22 appropriate aggravating and mitigating circumstances, and  
23 shall be designed to target a narrower population of children  
24 than s. 985.215(2). The risk assessment instrument shall also  
25 include any information concerning the child's history of  
26 abuse and neglect. The risk assessment shall indicate whether  
27 detention care is warranted, and, if detention care is  
28 warranted, whether the child should be placed into secure,  
29 nonsecure, or home detention care. This subparagraph expires  
30 October 1, 2000.

31

1           2. If, at the detention hearing, the court finds a  
2 material error in the scoring of the risk assessment  
3 instrument, the court may amend the score to reflect factual  
4 accuracy. This subparagraph expires October 1, 2000.

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

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

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

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

14  
15 The child may not be held in secure detention under this  
16 subparagraph for more than 48 hours unless ordered by the  
17 court. After 48 hours, the court shall hold a hearing if the  
18 state attorney or victim requests that secure detention be  
19 continued. The child may continue to be held in secure  
20 detention if the court makes a specific, written finding that  
21 secure detention is necessary to protect the victim from  
22 further injury. However, the child may not be held in secure  
23 detention beyond the time limits set forth in s. 985.215.

24           (5) A risk assessment workgroup is established, to be  
25 composed of nine members. Members must have direct experience  
26 and a strong interest in juvenile justice issues. Composition  
27 of the workgroup shall be as follows: a public defender, a  
28 state attorney, and a sheriff appointed by their respective  
29 professional associations; a representative of the Department  
30 of Juvenile Justice, a chairman of a local juvenile justice  
31 board or county council, and a child advocate appointed by the

1 Secretary of Juvenile Justice; a juvenile judge appointed by  
2 the Conference of Circuit Court Judges; a member of the Senate  
3 appointed by the President of the Senate; and a member of the  
4 House of Representatives appointed by the Speaker of the House  
5 of Representatives. The workgroup shall review the  
6 effectiveness of the risk assessment instrument as a screening  
7 device and shall make recommendations to keep, revise, or  
8 eliminate the instrument, based upon its findings. The  
9 workgroup shall report to the Governor, the President of the  
10 Senate, and the Speaker of the House of Representatives  
11 regarding these findings by January 15, 2000. Subject to  
12 specific appropriations, an independent evaluation will be  
13 commissioned by the department to validate the current risk  
14 assessment instrument and make an objective report to the  
15 workgroup and the Legislature.

16 Section 3. Subsection (5) of section 985.215, Florida  
17 Statutes, 1998 Supplement, is amended to read:

18 985.215 Detention.--

19 (5)(a) A child may not be placed into or held in  
20 secure, nonsecure, or home detention care for longer than 24  
21 hours unless the court orders such detention care, and the  
22 order includes specific instructions that direct the release  
23 of the child from such detention care, in accordance with  
24 subsection (2). The order shall be a final order, reviewable  
25 by appeal pursuant to s. 985.234 and the Florida Rules of  
26 Appellate Procedure. Appeals of such orders shall take  
27 precedence over other appeals and other pending matters.

28 (b) The arresting law enforcement agency shall  
29 complete and present its investigation of an offense under  
30 this subsection to the appropriate state attorney's office  
31 within 8 days after placement of the child in secure

1 detention. The investigation shall include, but is not limited  
2 to, police reports and supplemental police reports, witness  
3 statements, and evidence collection documents.

4 (c)~~(b)~~ Except as provided in paragraph (f), a child  
5 may not be held in secure, nonsecure, or home detention care  
6 under a special detention order for more than 21 days unless  
7 an adjudicatory hearing for the case has been commenced by the  
8 court.

9 (d)~~(c)~~ A child may not be held in secure, nonsecure,  
10 or home detention care for more than 15 days following the  
11 entry of an order of adjudication.

12 (e)~~(d)~~ The time limits in paragraphs~~(b)~~ and (c) and  
13 (d) do not include periods of delay resulting from a  
14 continuance granted by the court for cause on motion of the  
15 child or his or her counsel or of the state. Upon the issuance  
16 of an order granting a continuance for cause on a motion by  
17 either the child, the child's counsel, or the state, the court  
18 shall conduct a hearing at the end of each 72-hour period,  
19 excluding Saturdays, Sundays, and legal holidays, to determine  
20 the need for continued detention of the child and the need for  
21 further continuance of proceedings for the child or the state.

22 (f) The Legislature recognizes the benefits of early  
23 case resolution and encourages disposition of cases within  
24 detention time limits whenever possible.

25 (g) The court may extend the time limits for detention  
26 specified in paragraph (c) for an additional 9 days if the  
27 child is charged with a capital felony, a life felony, a  
28 felony of the first degree, or a felony of the second degree  
29 involving violence against any individual.

30 Section 4. This act shall take effect October 1, 1999.  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill's 1724 and 2312

1. Combines the "risk assessment instrument" provisions in SB 2312 with the detention time limitations in SB 1724.
2. Clarifies that the sunset provision in SB 2312 applies only to the current risk assessment instrument language, not to the statutory language detaining children that commit domestic violence.
3. Requires the arresting law enforcement agency to complete and present its investigation to the state attorney's office within 8 days of the child being placed in secure detention.
4. Deletes the petition filing time limitations.
5. Deletes the provision allowing an extension of time for post-adjudication detention.