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A bill to be entitled
 An act relating to the sentencing of minors; amending ss. 985.225, 985.233, F.S.; limiting the age at which a minor convicted of an offense punishable by death or life imprisonment may be sentenced as an adult; amending ss. 985.226, 985.227, F.S.; revising requirements for the state attorney with respect to prosecuting a minor as an adult for certain violent felonies and for an offense punishable by death or life imprisonment; creating s. 985.2335, F.S.; requiring that the court commit a child of a specified age or younger to the Department of Juvenile Justice or to a maximum-risk juvenile facility following the child's conviction of an offense that, if committed by an adult, would be punishable by death or life imprisonment; requiring the court to conduct a hearing after the child has reached a specified age to determine whether the child is rehabilitated; providing for the child to be placed on conditional release or sentenced to life imprisonment with eligibility for parole as an adult offender; providing an effective date.

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

Section 1. Section 985.225, Florida Statutes, is amended to read:

985.225 Indictment of a child 17 years of age ~~juvenile~~.--

(1) A child who is 17 years of age at the time of the offense and ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.219(8)



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31 unless and until an indictment on the charge is returned by the
 32 grand jury. When such indictment is returned, the petition for
 33 delinquency, if any, must be dismissed and the child must be
 34 tried and handled in every respect as an adult:

35 (a) On the offense punishable by death or by life
 36 imprisonment; and

37 (b) On all other felonies or misdemeanors charged in the
 38 indictment which are based on the same act or transaction as the
 39 offense punishable by death or by life imprisonment or on one or
 40 more acts or transactions connected with the offense punishable
 41 by death or by life imprisonment.

42 (2) An adjudicatory hearing may not be held until 21 days
 43 after the child is taken into custody and charged with having
 44 committed an offense punishable by death or by life
 45 imprisonment, unless the state attorney advises the court in
 46 writing that he or she does not intend to present the case to
 47 the grand jury, or has presented the case to the grand jury and
 48 the grand jury has not returned an indictment. If the court
 49 receives such a notice from the state attorney, or if the grand
 50 jury fails to act within the 21-day period, the court may
 51 proceed as otherwise authorized under this part.

52 (3) If the child is found to have committed the offense
 53 punishable by death or by life imprisonment, the child shall be
 54 sentenced as an adult. If the juvenile is not found to have
 55 committed the indictable offense but is found to have committed
 56 a lesser included offense or any other offense for which he or
 57 she was indicted as a part of the criminal episode, the court
 58 may sentence pursuant to s. 985.233.

59 (4) (a) Once a child has been indicted pursuant to this
 60 subsection and has been found to have committed any offense for



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61 which he or she was indicted as a part of the criminal episode,
 62 the child shall be handled thereafter in every respect as if an
 63 adult for any subsequent violation of state law, unless the
 64 court imposes juvenile sanctions under s. 985.233.

65 (b) When a child has been indicted pursuant to this
 66 subsection the court shall immediately transfer and certify to
 67 the adult circuit court all felony cases pertaining to the
 68 child, for prosecution of the child as an adult, which have not
 69 yet resulted in a plea of guilty or nolo contendere or in which
 70 a finding of guilt has not been made. If the child is acquitted
 71 of all charged offenses or lesser included offenses contained in
 72 the indictment case, all felony cases that were transferred to
 73 adult court pursuant to this paragraph shall be subject to the
 74 same penalties such cases were subject to before being
 75 transferred to adult court.

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

78 985.226 Criteria for waiver of juvenile court
 79 jurisdiction; hearing on motion to transfer for prosecution as
 80 an adult.--

81 (2) INVOLUNTARY WAIVER.--

82 (a) Discretionary waiver.--Except as provided in paragraph
 83 (b), the state attorney may file a motion requesting the court
 84 to transfer the child for criminal prosecution if the child was
 85 17 ~~14~~ years of age ~~or older~~ at the time the alleged delinquent
 86 act or violation of law was committed.

87 (b) Mandatory waiver.--

88 1. If the child was 17 ~~14~~ years of age ~~or older~~, and if
 89 the child has been previously adjudicated delinquent for an act
 90 classified as a felony, which adjudication was for the



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91 commission of, attempt to commit, or conspiracy to commit
92 murder, sexual battery, armed or strong-armed robbery,
93 carjacking, home-invasion robbery, aggravated battery,
94 aggravated assault, or burglary with an assault or battery, and
95 the child is currently charged with a second or subsequent
96 violent crime against a person; or

97 2. If the child was 17 ~~14~~ years of age ~~or older~~ at the
98 time of commission of a fourth or subsequent alleged felony
99 offense and the child was previously adjudicated delinquent or
100 had adjudication withheld for or was found to have committed, or
101 to have attempted or conspired to commit, three offenses that
102 are felony offenses if committed by an adult, and one or more of
103 such felony offenses involved the use or possession of a firearm
104 or violence against a person;

105
106 the state attorney shall request the court to transfer and
107 certify the child for prosecution as an adult or shall provide
108 written reasons to the court for not making such request, or
109 proceed pursuant to s. 985.227(1). Upon the state attorney's
110 request, the court shall either enter an order transferring the
111 case and certifying the case for trial as if the child were an
112 adult or provide written reasons for not issuing such an order.

113 Section 3. Paragraph (a) of subsection (1) and paragraph
114 (c) of subsection (2) of section 985.227, Florida Statutes, are
115 amended to read:

116 985.227 Prosecution of juveniles as adults by the direct
117 filing of an information in the criminal division of the circuit
118 court; discretionary criteria; mandatory criteria.--

119 (1) DISCRETIONARY DIRECT FILE; CRITERIA.--



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120 (a) With respect to any child who was 17 ~~14~~ or ~~15~~ years of
 121 age at the time the alleged offense was committed, the state
 122 attorney may file an information when in the state attorney's
 123 judgment and discretion the public interest requires that adult
 124 sanctions be considered or imposed and when the offense charged
 125 is for the commission of, attempt to commit, or conspiracy to
 126 commit:

- 127 1. Arson;
- 128 2. Sexual battery;
- 129 3. Robbery;
- 130 4. Kidnapping;
- 131 5. Aggravated child abuse;
- 132 6. Aggravated assault;
- 133 7. Aggravated stalking;
- 134 8. Murder;
- 135 9. Manslaughter;
- 136 10. Unlawful throwing, placing, or discharging of a
 137 destructive device or bomb;
- 138 11. Armed burglary in violation of s. 810.02(2)(b) or
 139 specified burglary of a dwelling or structure in violation of s.
 140 810.02(2)(c), or burglary with an assault or battery in
 141 violation of s. 810.02(2)(a);
- 142 12. Aggravated battery;
- 143 13. Any lewd or lascivious offense committed upon or in
 144 the presence of a person less than 16 years of age;
- 145 14. Carrying, displaying, using, threatening, or
 146 attempting to use a weapon or firearm during the commission of a
 147 felony;
- 148 15. Grand theft in violation of s. 812.014(2)(a);



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149 16. Possessing or discharging any weapon or firearm on
150 school property in violation of s. 790.115;

151 17. Home invasion robbery;

152 18. Carjacking; or

153 19. Grand theft of a motor vehicle in violation of s.
154 812.014(2)(c)6. or grand theft of a motor vehicle valued at
155 \$20,000 or more in violation of s. 812.014(2)(b) if the child
156 has a previous adjudication for grand theft of a motor vehicle
157 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

158 (2) MANDATORY DIRECT FILE.--

159 (c) The state attorney must file an information if a child
160 who was 17 years, ~~regardless of the child's~~ age at the time the
161 alleged offense was committed, is alleged to have committed an
162 act that would be a violation of law if the child were an adult,
163 that involves stealing a motor vehicle, including, but not
164 limited to, a violation of s. 812.133, relating to carjacking,
165 or s. 812.014(2)(c)6., relating to grand theft of a motor
166 vehicle, and while the child was in possession of the stolen
167 motor vehicle the child caused serious bodily injury to or the
168 death of a person who was not involved in the underlying
169 offense. For purposes of this section, the driver and all
170 willing passengers in the stolen motor vehicle at the time such
171 serious bodily injury or death is inflicted shall also be
172 subject to mandatory transfer to adult court. "Stolen motor
173 vehicle," for the purposes of this section, means a motor
174 vehicle that has been the subject of any criminal wrongful
175 taking. For purposes of this section, "willing passengers" means
176 all willing passengers who have participated in the underlying
177 offense.



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178 Section 4. Paragraph (a) of subsection (4) of section
 179 985.233, Florida Statutes, is amended to read:

180 985.233 Sentencing powers; procedures; alternatives for
 181 juveniles prosecuted as adults.--

182 (4) SENTENCING ALTERNATIVES.--

183 (a) Sentencing to adult sanctions.--

184 1. Cases prosecuted on indictment.--If the child was at
 185 least 17 years of age at the time of the offense and is found to
 186 have committed the offense punishable by death or life
 187 imprisonment, the child shall be sentenced as an adult. If the
 188 juvenile is not found to have committed the indictable offense
 189 but is found to have committed a lesser included offense or any
 190 other offense for which he or she was indicted as a part of the
 191 criminal episode, the court may sentence as follows:

- 192 a. As an adult;
- 193 b. Pursuant to chapter 958; or
- 194 c. As a juvenile pursuant to this section.

195 2. Other cases.--If a child who has been transferred for
 196 criminal prosecution pursuant to information or waiver of
 197 juvenile court jurisdiction is found to have committed a
 198 violation of state law or a lesser included offense for which he
 199 or she was charged as a part of the criminal episode, the court
 200 may sentence as follows:

- 201 a. As an adult;
- 202 b. Pursuant to chapter 958; or
- 203 c. As a juvenile pursuant to this section.

204 3. Notwithstanding any other provision to the contrary, if
 205 the state attorney is required to file a motion to transfer and
 206 certify the juvenile for prosecution as an adult pursuant to s.
 207 985.226(2) (b) and that motion is granted, or if the state



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208 attorney is required to file an information pursuant to s.
 209 985.227(2) (a) or (b), the court must impose adult sanctions.

210 4. Any sentence imposing adult sanctions is presumed
 211 appropriate, and the court is not required to set forth specific
 212 findings or enumerate the criteria in this subsection as any
 213 basis for its decision to impose adult sanctions.

214 5. When a child has been transferred for criminal
 215 prosecution as an adult and has been found to have committed a
 216 violation of state law, the disposition of the case may include
 217 the enforcement of any restitution ordered in any juvenile
 218 proceeding.

219
 220 It is the intent of the Legislature that the criteria and
 221 guidelines in this subsection are mandatory and that a
 222 determination of disposition under this subsection is subject to
 223 the right of the child to appellate review under s. 985.234.

224 Section 5. Section 985.2335, Florida Statutes, is created
 225 to read:

226 985.2335 Sentencing of a child 16 years of age or younger
 227 who is convicted of an offense punishable by death or life
 228 imprisonment.--

229 (1) Notwithstanding any other law, if a child who is 16
 230 years of age or younger at the time the offense was committed is
 231 sentenced for an offense that, if committed by an adult, would
 232 be punishable by death or life imprisonment, the court shall
 233 sentence the child for the offense and for all other felonies or
 234 misdemeanors based on the same act or transaction, or based on
 235 one or more acts or transactions connected with the offense
 236 punishable by death or by life imprisonment, as follows:



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237 (a) The child shall be committed to the department for
 238 evaluation and treatment in an intensive residential treatment
 239 program until the child reaches 21 years of age. The intensive
 240 residential treatment program must be a program designed to
 241 promote rehabilitation, prevent recidivism, and provide for the
 242 child's successful return to society; or

243 (b) The child shall be committed to a maximum-risk
 244 residential juvenile correctional facility until the child
 245 reaches 21 years of age, and the child may not be placed on
 246 temporary or conditional release.

247 (2) Within a reasonable time after reaching 21 years of
 248 age, the department shall return the child to the sentencing
 249 court for a hearing. If the court finds that the child is
 250 sufficiently rehabilitated so that the public's safety is
 251 reasonably assured, the child shall be placed on conditional
 252 release for a term of at least 10 years. If the court finds that
 253 the child is not sufficiently rehabilitated so that the public's
 254 safety is reasonably assured, the child shall be sentenced to
 255 life imprisonment with eligibility for parole under the same
 256 conditions applicable to an adult offender.

257 Section 6. This act shall take effect July 1, 2003.