

By Senator Dean

3-00588-10

20102004

1 A bill to be entitled
2 An act relating to juvenile justice; creating s.
3 985.031, F.S.; authorizing the court to set reasonable
4 conditions of preadjudicatory release for children
5 charged with specified acts or who have previously
6 been charged with or committed delinquent acts;
7 providing examples of such conditions; amending s.
8 985.101, F.S.; permitting a child to be taken into
9 custody for violations of preadjudicatory release
10 conditions; providing that a child taken into custody
11 for a violation of preadjudicatory release conditions
12 must appear before a judge within 24 hours; amending
13 s. 985.24, F.S.; providing an additional finding to
14 support the use of secure, nonsecure, or home
15 detention care; amending s. 985.245, F.S.; providing
16 that placement in detention care under a specified
17 provision does not require a risk assessment; amending
18 s. 985.25, F.S.; providing additional grounds for
19 placement of a child in secure detention care;
20 amending s. 985.255, F.S.; providing for continuing
21 home or nonsecure detention care or secure detention
22 care prior to a detention hearing in certain
23 circumstances; amending s. 985.26, F.S.; requiring
24 that children who have been released comply with
25 preadjudicatory release conditions; providing that
26 certain time limits do not apply to secure detention
27 under specified provisions; amending s. 985.265, F.S.;
28 specifying some changed circumstances that permit the
29 Department of Juvenile Justice to transfer a child

3-00588-10

20102004

30 from nonsecure or home detention care to secure
31 detention care; amending s. 985.27, F.S.; specifying
32 circumstances under which a child who is awaiting
33 placement in a low-risk or minimum-risk residential
34 program may be held in secure detention care;
35 providing time limits on such detention care;
36 providing for secure detention care for absconders
37 from specified types of care; revising provisions for
38 detention care of a child awaiting placement in a
39 moderate-risk residential program; providing for
40 secure detention care in specified circumstances;
41 creating s. 985.28, F.S.; providing for secure
42 detention of a child in specified circumstances;
43 permitting a parent or legal guardian of a child to be
44 held in contempt of court if he or she knowingly and
45 willfully fails to bring or otherwise prevents the
46 child from appearing for trial; amending s. 985.35,
47 F.S.; conforming a cross-reference to changes made by
48 the act; amending s. 985.43, F.S.; conforming a cross-
49 reference to changes made by the act; providing a
50 legislative declaration concerning the determination
51 whether to commit a juvenile to the department and the
52 most appropriate placement level if the juvenile is
53 committed; amending s. 985.433, F.S.; revising
54 provisions relating to recommendations by probation
55 officers to the court concerning placement and any
56 proposed treatment plan of juveniles; specifying that
57 the court has the power to determine appropriate
58 dispositions; requiring that reasons for a disposition

3-00588-10

20102004

59 be stated for the record; amending s. 985.439, F.S.;

60 permitting a child to be detained in a facility other

61 than a consequence unit if one is not available for a

62 violation of probation or postcommitment probation

63 under specified provisions; creating s. 938.20, F.S.;

64 permitting each county to create a juvenile crime

65 prevention fund; providing for an additional court

66 cost; providing that no juvenile shall be assessed the

67 additional court cost if the juvenile and the

68 juvenile's parents or other legal guardian are found

69 to be indigent; providing for administration and use

70 of funds; amending s. 790.22, F.S.; conforming a

71 cross-reference; providing that the act fulfills an

72 important state interest; providing legislative

73 intent; providing an effective date.

74

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

76

77 Section 1. Section 985.031, Florida Statutes, is created to

78 read:

79 985.031 Preadjudicatory release; circuit court authority.-

80 The circuit court shall have the authority to set reasonable

81 conditions of preadjudicatory release for a child charged with

82 the commission of a delinquent act that constitutes a felony or

83 when the child has previously been charged with or found to have

84 committed, regardless of adjudication, a delinquent act. The

85 child shall comply with all such preadjudicatory release

86 conditions prior to an adjudicatory hearing. Reasonable

87 conditions of preadjudicatory release may include, but are not

3-00588-10

20102004

88 limited to, the following:

89 (1) The child shall not engage in a violation of law.

90 (2) The child shall not possess or carry any weapon.

91 (3) The child shall not possess or use any alcoholic
92 beverage or illegal drug or associate with those who are
93 currently possessing or using any alcoholic beverage or illegal
94 drug.

95 (4) The child shall obey all reasonable household rules.

96 (5) The child shall attend school regularly, including all
97 classes.

98 (6) The child shall abide by the curfew set by his or her
99 parents or guardians, or as set by the court.

100 (7) The child shall have no contact with any codefendants,
101 an alleged victim, or the family of any alleged victim.

102 (8) The child shall not return to the scene of the alleged
103 crime, unless approved by the court.

104 Section 2. Paragraph (d) of subsection (1) of section
105 985.101, Florida Statutes, is amended, and subsection (5) is
106 added to that section, to read:

107 985.101 Taking a child into custody; preadjudicatory
108 release conditions.—

109 (1) A child may be taken into custody under the following
110 circumstances:

111 (d) By a law enforcement officer who has probable cause to
112 believe that the child is in violation of the conditions of the
113 child's preadjudicatory release, conditions of the child's
114 probation, home detention, postcommitment probation, or
115 conditional release supervision; has absconded from
116 nonresidential commitment; or has escaped from residential

3-00588-10

20102004

117 commitment.

118

119 Nothing in this subsection shall be construed to allow the
120 detention of a child who does not meet the detention criteria in
121 part V.

122 (5) If a child is taken into custody under paragraph (1) (d)
123 for a violation of the conditions of preadjudicatory release,
124 the child must appear before a judge within 24 hours.

125 Section 3. Subsection (1) of section 985.24, Florida
126 Statutes, is amended to read:

127 985.24 Use of detention; prohibitions.—

128 (1) All determinations and court orders regarding the use
129 of secure, nonsecure, or home detention care shall be based
130 primarily upon findings that the child:

131 (a) Presents a substantial risk of not appearing at a
132 subsequent hearing;

133 (b) Presents a substantial risk of inflicting bodily harm
134 on others as evidenced by recent behavior;

135 (c) Presents a history of committing a property offense
136 prior to adjudication, disposition, or placement;

137 (d) Has been adjudicated delinquent and committed to the
138 department in a residential facility, but is on home or
139 nonsecure detention care while awaiting placement, and:

140 1. Absconds from home or nonsecure detention care or
141 otherwise violates the terms of release; or

142 2. There is probable cause to believe that the child has
143 committed a new violation of law;

144 (e) ~~(d)~~ Has committed contempt of court by:

145 1. Intentionally disrupting the administration of the

3-00588-10

20102004

146 court;

147 2. Intentionally disobeying a court order; or

148 3. Engaging in a punishable act or speech in the court's
149 presence which shows disrespect for the authority and dignity of
150 the court; or

151 (f) ~~(e)~~ Requests protection from imminent bodily harm.

152 Section 4. Subsection (1) of section 985.245, Florida
153 Statutes, is amended to read:

154 985.245 Risk assessment instrument.—

155 (1) All determinations and court orders regarding placement
156 of a child into detention care shall comply with all
157 requirements and criteria provided in this part and shall be
158 based on a risk assessment of the child, unless the child is
159 placed into detention care as provided in s. 985.255(2) or s.
160 985.28.

161 Section 5. Paragraph (b) of subsection (1) of section
162 985.25, Florida Statutes, is amended to read:

163 985.25 Detention intake.—

164 (1) The juvenile probation officer shall receive custody of
165 a child who has been taken into custody from the law enforcement
166 agency and shall review the facts in the law enforcement report
167 or probable cause affidavit and make such further inquiry as may
168 be necessary to determine whether detention care is required.

169 (b) The juvenile probation officer shall base the decision
170 whether ~~or not~~ to place the child into secure detention care,
171 home detention care, or nonsecure detention care on an
172 assessment of risk in accordance with the risk assessment
173 instrument and procedures developed by the department under s.
174 985.245. However, a child shall be placed in secure detention

3-00588-10

20102004

175 care if:

176 1. The child is charged with possessing or discharging a
177 firearm on school property in violation of s. 790.115;

178 2. The child is alleged to have absconded from home or
179 nonsecure detention care or the child otherwise violates the
180 terms of release after adjudication and commitment to the
181 department but before placement in a residential facility; or

182 3. There is probable cause to believe the child has
183 committed a new violation of law while on home or nonsecure
184 detention care after adjudication and commitment but before
185 placement in a residential facility ~~shall be placed in secure~~
186 ~~detention care.~~

187

188 Under no circumstances shall the juvenile probation officer or
189 the state attorney or law enforcement officer authorize the
190 detention of any child in a jail or other facility intended or
191 used for the detention of adults, without an order of the court.

192 Section 6. Subsections (1) and (3) of section 985.255,
193 Florida Statutes, are amended to read:

194 985.255 Detention criteria; detention hearing.—

195 (1) Subject to s. 985.25(1), a child taken into custody and
196 placed into nonsecure or home detention care or detained in
197 secure detention care prior to a detention hearing may continue
198 to be detained by the court if:

199 (a) The child is alleged to have absconded from home or
200 nonsecure detention care or otherwise violates the terms of
201 release after adjudication and commitment but while awaiting
202 placement in a residential facility.

203 (b) There is probable cause to believe the child has

3-00588-10

20102004

204 committed a new violation of law while on home or nonsecure
205 detention care after adjudication and commitment but while
206 awaiting placement in a residential facility.

207 (c)~~(a)~~ The child is alleged to be an escapee from a
208 residential commitment program; or an absconder from a
209 nonresidential commitment program, a probation program, or
210 conditional release supervision; or is alleged to have escaped
211 while being lawfully transported to or from a residential
212 commitment program.

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

215 (e)~~(c)~~ The child is charged with a delinquent act or
216 violation of law and requests in writing through legal counsel
217 to be detained for protection from an imminent physical threat
218 to his or her personal safety.

219 (f)~~(d)~~ The child is charged with committing an offense of
220 domestic violence as defined in s. 741.28 and is detained as
221 provided in subsection (2).

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

224 (h)~~(f)~~ The child is charged with a capital felony, a life
225 felony, a felony of the first degree, a felony of the second
226 degree that does not involve a violation of chapter 893, or a
227 felony of the third degree that is also a crime of violence,
228 including any such offense involving the use or possession of a
229 firearm.

230 (i)~~(g)~~ The child is charged with any second degree or third
231 degree felony involving a violation of chapter 893 or any third
232 degree felony that is not also a crime of violence, and the

3-00588-10

20102004

233 child:

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

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

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

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

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

243 (j)~~(h)~~ The child is alleged to have violated the conditions
244 of the child's probation or conditional release supervision.
245 However, a child detained under this paragraph may be held only
246 in a consequence unit as provided in s. 985.439. If a
247 consequence unit is not available, the child may be placed in
248 secure detention care, home detention care, or home detention
249 care with electronic monitoring ~~shall be placed on home~~
250 ~~detention with electronic monitoring.~~

251 (k)~~(i)~~ The child is detained on a judicial order for
252 failure to appear and has previously willfully failed to appear,
253 after proper notice, for an adjudicatory hearing on the same
254 case regardless of the results of the risk assessment
255 instrument. A child may be held in secure detention for up to 72
256 hours in advance of the next scheduled court hearing pursuant to
257 this paragraph. The child's failure to keep the clerk of court
258 and defense counsel informed of a current and valid mailing
259 address where the child will receive notice to appear at court
260 proceedings does not provide an adequate ground for excusal of
261 the child's nonappearance at the hearings.

3-00588-10

20102004

262 (1)~~(j)~~ The child is detained on a judicial order for
263 failure to appear and has previously willfully failed to appear,
264 after proper notice, at two or more court hearings of any nature
265 on the same case regardless of the results of the risk
266 assessment instrument. A child may be held in secure detention
267 for up to 72 hours in advance of the next scheduled court
268 hearing pursuant to this paragraph. The child's failure to keep
269 the clerk of court and defense counsel informed of a current and
270 valid mailing address where the child will receive notice to
271 appear at court proceedings does not provide an adequate ground
272 for excusal of the child's nonappearance at the hearings.

273 (3) (a) A child who meets any of the criteria in subsection
274 (1) and who is ordered to be detained under that subsection
275 shall be given a hearing within 24 hours after being taken into
276 custody. The purpose of the detention hearing is to determine
277 the existence of probable cause that the child has committed the
278 delinquent act or violation of law that he or she is charged
279 with and the need for continued detention. Unless a child is
280 detained under paragraph (1) (a), paragraph (1) (b), paragraph
281 (1) (f) ~~(d)~~, or paragraph (1) (g) ~~(e)~~, the court shall use the
282 results of the risk assessment performed by the juvenile
283 probation officer and, based on the criteria in subsection (1),
284 shall determine the need for continued detention. A child placed
285 into secure, nonsecure, or home detention care may continue to
286 be so detained by the court. A child detained under paragraph
287 (1) (a) or paragraph (1) (b) may be placed into secure detention
288 care pending placement in a residential facility.

289 (c) Except as provided in paragraph (1) (a), paragraph
290 (1) (b), s. 790.22 (8), or in s. 985.27, when a child is placed

3-00588-10

20102004

291 into secure or nonsecure detention care, or into a respite home
292 or other placement pursuant to a court order following a
293 hearing, the court order must include specific instructions that
294 direct the release of the child from such placement no later
295 than 5 p.m. on the last day of the detention period specified in
296 s. 985.26 or s. 985.27, whichever is applicable, unless the
297 requirements of such applicable provision have been met or an
298 order of continuance has been granted under s. 985.26(4).

299 Section 7. Section 985.26, Florida Statutes, is amended to
300 read:

301 985.26 Length of detention.—

302 (1) A child may not be placed into or held in secure,
303 nonsecure, or home detention care for longer than 24 hours
304 unless the court orders such detention care, and the order
305 includes specific instructions that direct the release of the
306 child from such detention care, in accordance with s. 985.255.
307 The order shall be a final order, reviewable by appeal under s.
308 985.534 and the Florida Rules of Appellate Procedure. Appeals of
309 such orders shall take precedence over other appeals and other
310 pending matters.

311 (2) A child may not be held in secure, nonsecure, or home
312 detention care under a special detention order for more than 21
313 days unless an adjudicatory hearing for the case has been
314 commenced in good faith by the court. However, upon good cause
315 being shown that the nature of the charge requires additional
316 time for the prosecution or defense of the case, the court may
317 extend the length of detention for an additional 9 days if the
318 child is charged with an offense that would be, if committed by
319 an adult, a capital felony, a life felony, a felony of the first

3-00588-10

20102004

320 degree, or a felony of the second degree involving violence
321 against any individual. For purposes of this subsection, if a
322 child is released, the child must comply with all conditions of
323 preadjudicatory release set by the circuit court.

324 (3) Except as provided in subsection (2), a child may not
325 be held in secure, nonsecure, or home detention care for more
326 than 15 days following the entry of an order of adjudication.

327 (4) The time limits in subsections (2) and (3) do not
328 include periods of delay resulting from a continuance granted by
329 the court for cause on motion of the child or his or her counsel
330 or of the state. Upon the issuance of an order granting a
331 continuance for cause on a motion by either the child, the
332 child's counsel, or the state, the court shall conduct a hearing
333 at the end of each 72-hour period, excluding Saturdays, Sundays,
334 and legal holidays, to determine the need for continued
335 detention of the child and the need for further continuance of
336 proceedings for the child or the state.

337 (5) The time limits required under this section do not
338 apply to children held in secure detention care pursuant to ss.
339 985.255(1)(a) and (b) and (3), 985.27(1)(a) and (b), and 985.28.

340 (6)~~(5)~~ A child who was not in secure detention care at the
341 time of the adjudicatory hearing, but for whom residential
342 commitment is anticipated or recommended, may be placed under a
343 special detention order for a period not to exceed 72 hours,
344 excluding weekends and legal holidays, for the purpose of
345 conducting a comprehensive evaluation as provided in s. 985.185.
346 Motions for the issuance of such special detention order may be
347 made subsequent to a finding of delinquency. Upon said motion,
348 the court shall conduct a hearing to determine the

3-00588-10

20102004

349 appropriateness of such special detention order and shall order
350 the least restrictive level of detention care necessary to
351 complete the comprehensive evaluation process that is consistent
352 with public safety. Such special detention order may be extended
353 for an additional 72 hours upon further order of the court.

354 (7)~~(6)~~ If a child is detained and a petition for
355 delinquency is filed, the child shall be arraigned in accordance
356 with the Florida Rules of Juvenile Procedure within 48 hours
357 after the filing of the petition for delinquency.

358 Section 8. Subsection (1) of section 985.265, Florida
359 Statutes, is amended to read:

360 985.265 Detention transfer and release; education; adult
361 jails.—

362 (1) If a child is detained under this part, the department
363 may transfer the child from nonsecure or home detention care to
364 secure detention care only if significantly changed
365 circumstances warrant such transfer. Such circumstances include,
366 but are not limited to:

367 (a) Where a child is alleged to have absconded from home or
368 nonsecure detention care or otherwise violates the terms of
369 release after adjudication and commitment but while awaiting
370 placement in a residential facility; or

371 (b) Where probable cause exists that a child has committed
372 a new violation of law while on home or nonsecure detention care
373 after adjudication and commitment but while awaiting placement
374 in a residential facility.

375 Section 9. Subsection (1) of section 985.27, Florida
376 Statutes, is amended to read:

377 985.27 Postcommitment detention while awaiting placement.—

3-00588-10

20102004

378 (1) The court must place all children who are adjudicated
379 and awaiting placement in a commitment program in secure
380 detention care, home detention care, or nonsecure detention
381 care. Children who are in home detention care or nonsecure
382 detention care may be placed on electronic monitoring.

383 (a) A child who is awaiting placement in a low-risk
384 residential program must be removed from detention within 5
385 days, excluding Saturdays, Sundays, and legal holidays. Any
386 child held in secure detention during the 5 days must meet
387 detention admission criteria under this part. A child who is
388 placed in home detention care, nonsecure detention care, or home
389 or nonsecure detention care with electronic monitoring, while
390 awaiting placement in a minimum-risk or low-risk program, may be
391 held in secure detention care for 5 days, if the child violates
392 the conditions of the home detention care, the nonsecure
393 detention care, or the electronic monitoring agreement. For any
394 subsequent violation, the court may impose an additional 15 ~~5~~
395 days, excluding Saturdays, Sundays, and legal holidays, in
396 secure detention care.

397 (b) 1. A child who is awaiting placement in a moderate-risk
398 residential program must be placed in secure detention care,
399 home detention care, or nonsecure detention care. Any child held
400 in secure detention care must meet detention admission criteria
401 under this part.

402 2. A child may not be held in secure detention care longer
403 than 15 days, excluding Saturdays, Sundays, and legal holidays,
404 while awaiting placement in a moderate-risk residential
405 facility, except that any child shall be held in secure
406 detention care until placed in a residential facility if:

3-00588-10

20102004

407 a. The child is alleged to have absconded from home
408 detention care or nonsecure detention care or otherwise violated
409 the terms of release or electronic monitoring; or

410 b. Probable cause exists that a child committed a new
411 violation of law while on home detention care, nonsecure
412 detention care, or electronic monitoring and the child is
413 awaiting placement in a residential program ~~A child who is~~
414 ~~awaiting placement in a moderate-risk residential program must~~
415 ~~be removed from detention within 5 days, excluding Saturdays,~~
416 ~~Sundays, and legal holidays. Any child held in secure detention~~
417 ~~during the 5 days must meet detention admission criteria under~~
418 ~~this part. The department may seek an order from the court~~
419 ~~authorizing continued detention for a specific period of time~~
420 ~~necessary for the appropriate residential placement of the~~
421 ~~child. However, such continued detention in secure detention~~
422 ~~care may not exceed 15 days after entry of the commitment order,~~
423 ~~excluding Saturdays, Sundays, and legal holidays, and except as~~
424 ~~otherwise provided in this section. A child who is placed in~~
425 ~~home detention care, nonsecure detention care, or home or~~
426 ~~nonsecure detention care with electronic monitoring, while~~
427 ~~awaiting placement in a moderate-risk program, may be held in~~
428 ~~secure detention care for 5 days, if the child violates the~~
429 ~~conditions of the home detention care, the nonsecure detention~~
430 ~~care, or the electronic monitoring agreement. For any subsequent~~
431 ~~violation, the court may impose an additional 5 days in secure~~
432 ~~detention care.~~

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

3-00588-10

20102004

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

439 Section 10. Section 985.28, Florida Statutes, is created to
440 read:

441 985.28 Appearance in court; preadjudicatory detention;
442 contempt.-

443 (1) A child may be held in secure detention care if, after
444 proper notice, the child fails to appear in court because the
445 child refuses to appear, runs away, or otherwise intentionally
446 avoids his or her appearance. The court may hold the child in
447 secure detention care until the trial concludes, regardless of
448 the results of the risk assessment instrument.

449 (2) A parent or legal guardian, after being properly
450 noticed, who knowingly and willfully fails to bring or otherwise
451 prevents a child from appearing for trial may be held in
452 contempt of court.

453 Section 11. Subsection (1) of section 985.35, Florida
454 Statutes, is amended to read:

455 985.35 Adjudicatory hearings; withheld adjudications;
456 orders of adjudication.-

457 (1) The adjudicatory hearing must be held as soon as
458 practicable after the petition alleging that a child has
459 committed a delinquent act or violation of law is filed and in
460 accordance with the Florida Rules of Juvenile Procedure; but
461 reasonable delay for the purpose of investigation, discovery, or
462 procuring counsel or witnesses shall be granted. If the child is
463 being detained, the time limitations in s. 985.26(2) ~~and (3)~~
464 apply.

3-00588-10

20102004

465 Section 12. Paragraph (c) of subsection (1) of section
466 985.43, Florida Statutes, is amended, and subsection (4) is
467 added to that section, to read:

468 985.43 Predisposition reports; other evaluations.—

469 (1) Upon a finding that the child has committed a
470 delinquent act:

471 (c) A child who was not in secure detention at the time of
472 the adjudicatory hearing, but for whom residential commitment is
473 anticipated or recommended, may be placed under a special
474 detention order, as provided in s. 985.26~~(6)(5)~~, for the purpose
475 of conducting a comprehensive evaluation.

476 (4) The Legislature finds that the court is in the best
477 position to weigh all facts and circumstances to determine
478 whether or not to commit a juvenile to the department and to
479 determine the most appropriate restrictiveness level for a
480 juvenile committed to the department.

481 Section 13. Paragraphs (a) and (b) of subsection (7) of
482 section 985.433, Florida Statutes, are amended to read:

483 985.433 Disposition hearings in delinquency cases.—When a
484 child has been found to have committed a delinquent act, the
485 following procedures shall be applicable to the disposition of
486 the case:

487 (7) If the court determines that the child should be
488 adjudicated as having committed a delinquent act and should be
489 committed to the department, such determination shall be in
490 writing or on the record of the hearing. The determination shall
491 include a specific finding of the reasons for the decision to
492 adjudicate and to commit the child to the department, including
493 any determination that the child was a member of a criminal

3-00588-10

20102004

494 gang.

495 (a) The juvenile probation officer shall make a
496 recommendation to the court concerning placement and any
497 proposed treatment plan ~~recommend to the court the most~~
498 ~~appropriate placement and treatment plan, specifically~~
499 ~~identifying the restrictiveness level most appropriate for the~~
500 ~~child.~~ If the court has determined that the child was a member
501 of a criminal gang, that determination shall be given great
502 weight in identifying the most appropriate restrictiveness level
503 for the child. The court shall consider the department's
504 recommendation in making its commitment decision.

505 (b) The court may ~~shall~~ commit the child to the department
506 at the restrictiveness level identified by the department, or
507 the court may order placement at a different restrictiveness
508 level. The court may determine the disposition on the same
509 factors as the department considered in the department's
510 predisposition report and placement recommendation even if the
511 court reaches a different conclusion. The court may commit the
512 child to a different restrictiveness level than recommended by
513 the department. The court shall state for the record the reasons
514 for the disposition imposed ~~that establish by a preponderance of~~
515 ~~the evidence why the court is disregarding the assessment of the~~
516 ~~child and the restrictiveness level recommended by the~~
517 ~~department.~~ Any party may appeal the court's findings resulting
518 in a modified level of restrictiveness under this paragraph. The
519 department shall maintain data to identify the extent to which
520 the courts agree with the department's recommendation.

521 Section 14. Subsection (2) of section 985.439, Florida
522 Statutes, is amended to read:

3-00588-10

20102004

523 985.439 Violation of probation or postcommitment
524 probation.—

525 (2) A child taken into custody under s. 985.101 for
526 violating the conditions of probation or postcommitment
527 probation shall be held in a consequence unit if such a unit is
528 available or may be detained under part V in a facility other
529 than a consequence unit if one is not available. The child shall
530 be afforded a hearing within 24 hours after being taken into
531 custody to determine the existence of probable cause that the
532 child violated the conditions of probation or postcommitment
533 probation. A consequence unit is a secure facility specifically
534 designated by the department for children who are taken into
535 custody under s. 985.101 for violating probation or
536 postcommitment probation, or who have been found by the court to
537 have violated the conditions of probation or postcommitment
538 probation. If the violation involves a new charge of
539 delinquency, the child may be detained under part V in a
540 facility other than a consequence unit. If the child is not
541 eligible for detention for the new charge of delinquency, the
542 child may be held in the consequence unit pending a hearing and
543 is subject to the time limitations specified in part V.

544 Section 15. Section 938.20, Florida Statutes, is created to
545 read:

546 938.20 County juvenile crime prevention fund.—

547 (1) Notwithstanding s. 318.121, and in addition to ss.
548 938.19 and 939.185, in each county the board of county
549 commissioners may adopt a mandatory court cost to be assessed in
550 specific cases by incorporating by reference the provisions of
551 this section in a county ordinance. Assessments collected by the

3-00588-10

20102004

552 clerk of the circuit court under this section shall be deposited
553 into an account specifically for the administration of the
554 county's juvenile crime prevention fund. The proceeds of the
555 county's juvenile crime prevention fund shall only be used to
556 fund local programs whose principal focus is the prevention of
557 juvenile crime, the creation of consequence or suspension
558 centers, and truancy programs and such other areas of local
559 concern relating to juvenile crime.

560 (2) A sum of up to \$50 shall be assessed as a court cost in
561 the circuit court in the county against each juvenile who pleads
562 guilty or nolo contendere to, or is found guilty of, regardless
563 of adjudication, a delinquent act. A juvenile may not be
564 assessed court costs under this section if the juvenile and the
565 juvenile's parents or other legal guardian are found to be
566 indigent.

567 (3) The assessment for court costs under this section shall
568 be assessed in addition to any other cost or fee and may not be
569 deducted from the proceeds of any other cost that is received by
570 the county.

571 (4) (a) The clerk of the circuit court shall collect the
572 assessments for court costs under this section and shall remit
573 the assessments to the county's juvenile crime prevention fund
574 monthly.

575 (b) The clerk of the circuit court shall withhold 3 percent
576 of the assessments collected, which shall be retained as fee
577 income of the office of the clerk of the circuit court.

578 (5) A county's juvenile crime prevention fund must account
579 for all funds received and disbursed under this section in a
580 written report to the board of county commissioners of that

3-00588-10

20102004

581 county. The report must be given to the commissioners by August
582 1 of each year unless a different date is required by the
583 commissioners.

584 (6) A county's juvenile crime prevention fund may be
585 administered by a nonprofit organization, a law enforcement
586 agency, the court administrator, the clerk of the circuit court,
587 a county agency, or another similar agency authorized by the
588 board of county commissioners of that county.

589 Section 16. Subsection (8) of section 790.22, Florida
590 Statutes, is amended to read:

591 790.22 Use of BB guns, air or gas-operated guns, or
592 electric weapons or devices by minor under 16; limitation;
593 possession of firearms by minor under 18 prohibited; penalties.-

594 (8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor
595 under 18 years of age is charged with an offense that involves
596 the use or possession of a firearm, as defined in s. 790.001,
597 including a violation of subsection (3), or is charged for any
598 offense during the commission of which the minor possessed a
599 firearm, the minor shall be detained in secure detention, unless
600 the state attorney authorizes the release of the minor, and
601 shall be given a hearing within 24 hours after being taken into
602 custody. At the hearing, the court may order that the minor
603 continue to be held in secure detention in accordance with the
604 applicable time periods specified in s. 985.26(1)-(6)~~(1)-(5)~~, if
605 the court finds that the minor meets the criteria specified in
606 s. 985.255, or if the court finds by clear and convincing
607 evidence that the minor is a clear and present danger to himself
608 or herself or the community. The Department of Juvenile Justice
609 shall prepare a form for all minors charged under this

3-00588-10

20102004

610 subsection that states the period of detention and the relevant
611 demographic information, including, but not limited to, the sex,
612 age, and race of the minor; whether or not the minor was
613 represented by private counsel or a public defender; the current
614 offense; and the minor's complete prior record, including any
615 pending cases. The form shall be provided to the judge to be
616 considered when determining whether the minor should be
617 continued in secure detention under this subsection. An order
618 placing a minor in secure detention because the minor is a clear
619 and present danger to himself or herself or the community must
620 be in writing, must specify the need for detention and the
621 benefits derived by the minor or the community by placing the
622 minor in secure detention, and must include a copy of the form
623 provided by the department. The Department of Juvenile Justice
624 must send the form, including a copy of any order, without
625 client-identifying information, to the Office of Economic and
626 Demographic Research.

627 Section 17. The Legislature determines and declares that
628 this act fulfills an important state interest.

629 Section 18. It is the intent of the Legislature with this
630 act to ensure public safety and to provide appropriate and
631 effective treatment to address physical, social, and emotional
632 needs of juveniles, including, but not limited to, substance
633 abuse services, mental health services, family counseling, anger
634 management, other behavioral services, and health care services.

635 Section 19. This act shall take effect July 1, 2010.