

By Senator Diaz de la Portilla

40-00398-16

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1                   A bill to be entitled  
2       An act relating to juvenile justice; amending s.  
3       985.557, F.S.; revising the circumstances under which  
4       a state attorney may file an information when a child  
5       of a certain age range commits or attempts to commit  
6       specified crimes; deleting a requirement that a state  
7       attorney file an information under certain  
8       circumstances; deleting a provision that prohibits  
9       physical contact with adult offenders under certain  
10      circumstances; revising the effects of the direct  
11      filing of a child; prohibiting the transfer of a child  
12      under certain circumstances based on the child's  
13      competency; authorizing a child to request a hearing  
14      to determine whether he or she must remain in adult  
15      court; requiring the court to consider certain factors  
16      after a written request is made for a hearing;  
17      authorizing the court to waive the case back to  
18      juvenile court; requiring the Department of Juvenile  
19      Justice to collect specified data under certain  
20      circumstances; requiring the department to provide an  
21      annual report to the Legislature; amending s. 985.56,  
22      F.S.; revising the crimes and the age of a child who  
23      is subject to the jurisdiction of a circuit court;  
24      prohibiting the transfer of a child under certain  
25      circumstances based on the child's competency;  
26      removing provisions regarding sentencing of a child;  
27      authorizing, rather than requiring, a court to  
28      transfer a child indicted under certain circumstances;  
29      making technical changes; amending s. 985.565, F.S.;

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30 revising the criteria to be used in determining  
31 whether to impose juvenile or adult sanctions;  
32 requiring the adult court to render an order including  
33 specific findings of fact and the reasons for its  
34 decision; providing that the order is reviewable on  
35 appeal; requiring the court to consider any reports  
36 that may assist in the sentencing of a child;  
37 providing for the examination of the reports; removing  
38 a provision that requires a court to impose adult  
39 sanctions under certain circumstances; revising how a  
40 child may be sanctioned under certain circumstances;  
41 requiring the court to explain the basis for imposing  
42 adult sanctions; revising when juvenile sanctions may  
43 be imposed; amending s. 985.556, F.S.; conforming a  
44 cross-reference; amending s. 985.04, F.S.; conforming  
45 provisions to changes made by the act; reenacting ss.  
46 985.15(1), 985.265(5), and 985.556(3), F.S., relating  
47 to filing decisions; detention transfer and release,  
48 education, and adult jails; and waiver of juvenile  
49 court jurisdiction and hearings, respectively, to  
50 incorporate the amendment made to s. 985.557, F.S., in  
51 references thereto; reenacting ss. 985.514(3) and  
52 985.556(5)(a), F.S., relating to responsibility for  
53 cost of care and fees, and waiver of juvenile court  
54 jurisdiction and hearings, respectively, to  
55 incorporate the amendment made to s. 985.565, F.S., in  
56 references thereto; providing an effective date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 985.557, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.557, F.S., for present text.)

985.557 Direct filing of an information.—

(1) DIRECT FILE.—

(a) With respect to a child who was 16 years of age or older or less than 18 years of age at the time the alleged offense was committed, the state attorney may file an information if, in the state attorney's judgment and discretion, the public interest requires that adult sanctions be considered and the offense charged is for the commission of or attempt to commit:

1. Murder;

2. Manslaughter;

3. Sexual battery in violation of s. 794.011(3);

4. Armed robbery;

5. Aggravated assault with a firearm;

6. Aggravated child abuse;

7. Arson in violation of s. 806.031;

8. Kidnapping;

9. Unlawful throwing, placing, or discharging of a destructive device or bomb;

10. Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement to a person;

11. Carrying, displaying, using, or threatening or attempting to use a weapon or firearm in furtherance of the commission of a felony, if the use or threatened use does not

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88 include the mere acquisition of a deadly weapon or firearm  
89 during the felony;

90 12. Possessing or discharging a firearm on school property  
91 in violation of s. 790.115;

92 13. Home invasion robbery;

93 14. Aggravated stalking;

94 15. Carjacking;

95 16. Aggravated animal cruelty by intentional acts; or

96 17. DUI or BUI resulting in fatality, great bodily harm,  
97 permanent disability, or permanent disfigurement to a person.

98 (b) With respect to a child who was 14 or 15 years of age  
99 at the time the alleged offense was committed, the state  
100 attorney may file an information if, in the state attorney's  
101 judgment and discretion, the public interest requires that adult  
102 sanctions be considered and the offense charged is for the  
103 commission of or attempt to commit:

104 1. Murder;

105 2. Manslaughter; or

106 3. Sexual battery in violation of s. 794.011(3).

107 (2) EFFECT OF DIRECT FILE.—

108 (a) If a child is transferred for criminal prosecution as  
109 an adult, the court may transfer and certify to the adult  
110 circuit court for prosecution of the child as an adult all  
111 related felony cases pertaining to the child which have not yet  
112 resulted in a plea of guilty or nolo contendere or in which a  
113 finding of guilt has not been made. If the child is acquitted of  
114 all charged offenses or lesser included offenses contained in  
115 the original case transferred to adult court, any felony cases  
116 that were transferred to adult court under this subsection are

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117 subject to the same penalties they were subject to before their  
118 transfer.

119 (b) If a child has been convicted and sentenced to adult  
120 sanctions pursuant to this section, he or she shall be handled  
121 as an adult for any subsequent violation of state law, unless  
122 the court imposes juvenile sanctions under s. 985.565.

123 (3) TRANSFER PROHIBITION.—Notwithstanding any other law, a  
124 child who is eligible for direct file and who is pending a  
125 competency hearing in juvenile court or who has previously been  
126 found to be incompetent and has not been restored to competency  
127 by a court may not be transferred to adult court for criminal  
128 prosecution.

129 (4) REVERSE WAIVER.—A child who is transferred to adult  
130 court pursuant to this section may request, in writing, a  
131 hearing to determine whether he or she shall remain in adult  
132 court. The adult court, in determining whether public safety  
133 would be best served by retaining jurisdiction, shall consider  
134 the seriousness of the offense, the extent of the child's  
135 alleged participation or role in the offense, the sophistication  
136 and maturity of the child, and any prior offenses the child has  
137 committed. The adult court may, based on these considerations,  
138 waive the case back to juvenile court.

139 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

140 (a) The department shall collect data regarding children  
141 who qualify for direct file under subsection (1), including, but  
142 not limited to:

143 1. Age.

144 2. Race and ethnicity.

145 3. Gender.

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- 146       4. Circuit and county of residence.
- 147       5. Circuit and county of offense.
- 148       6. Prior adjudicated offenses.
- 149       7. Prior periods of probation.
- 150       8. Previous contacts with law enforcement agencies or the  
151 courts.
- 152       9. Initial charges.
- 153       10. Charges at disposition.
- 154       11. Whether adult codefendants were involved.
- 155       12. Whether child codefendants were involved who were  
156 transferred to adult court.
- 157       13. Whether the child was represented by counsel.
- 158       14. Whether the child has waived counsel.
- 159       15. Risk assessment instrument score.
- 160       16. The child's medical, mental health, substance abuse, or  
161 trauma history.
- 162       17. The child's history of physical or mental impairment or  
163 disability-related accommodations.
- 164       18. The child's history of abuse or neglect.
- 165       19. The child's history of foster care placements,  
166 including the number of prior placements.
- 167       20. Whether the child has fetal alcohol syndrome or was  
168 exposed to controlled substances at birth.
- 169       21. Whether the child has below-average intellectual  
170 functioning or is eligible for exceptional student education  
171 services.
- 172       22. Whether the child has received mental health services  
173 or treatment.
- 174       23. Whether the child has been the subject of a Children in

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175 Need of Services or Family in Need of Services (CINS/FINS)  
176 petition or a dependency petition.

177 24. Plea offers made by the state and the outcome of any  
178 plea offers.

179 25. Whether the child was transferred for criminal  
180 prosecution as an adult.

181 26. The case resolution in juvenile court.

182 27. The case resolution in adult court.

183 (b) If a child is transferred for criminal prosecution as  
184 an adult, the department shall also collect disposition data,  
185 including, but not limited to, whether the child received adult  
186 sanctions, juvenile sanctions, or diversion, and, if sentenced  
187 to prison, length of prison sentence or enhanced sentence.

188 (c) The department shall annually provide a report  
189 analyzing this aggregated data to the President of the Senate  
190 and the Speaker of the House of Representatives.

191 Section 2. Section 985.56, Florida Statutes, is amended to  
192 read:

193 985.56 Indictment of a juvenile.—

194 (1) A child 14 years of age or older ~~of any age~~ who is  
195 charged with a violation of state law punishable by death or by  
196 life imprisonment is subject to the jurisdiction of the court as  
197 set forth in s. 985.0301(2) unless and until an indictment on  
198 the charge is returned by the grand jury. When such indictment  
199 is returned, the petition for delinquency, if any, must be  
200 dismissed and the child must be tried ~~and handled in every~~  
201 ~~respect~~ as an adult:

202 (a) On the indicting offense ~~punishable by death or by life~~  
203 ~~imprisonment~~; and

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204 (b) On all other felonies or misdemeanors charged in the  
205 indictment which are based on the same act or transaction as the  
206 indicting offense ~~punishable by death or by life imprisonment or~~  
207 ~~on one or more acts or transactions connected with the offense~~  
208 ~~punishable by death or by life imprisonment.~~

209 (2) An adjudicatory hearing may not be held until 21 days  
210 after the child is taken into custody and charged with having  
211 committed an indictable offense ~~punishable by death or by life~~  
212 ~~imprisonment~~, unless the state attorney advises the court in  
213 writing that he or she does not intend to present the case to  
214 the grand jury, or has presented the case to the grand jury and  
215 the grand jury has not returned an indictment. If the court  
216 receives such a notice from the state attorney, or if the grand  
217 jury fails to act within the 21-day period, the court may  
218 proceed as otherwise authorized under this part.

219 (3) Notwithstanding any other law, a child who is eligible  
220 for indictment and who is pending a competency hearing in  
221 juvenile court or who has been previously found to be  
222 incompetent and has not been restored to competency by a court  
223 may not be transferred to adult court for criminal prosecution  
224 ~~If the child is found to have committed the offense punishable~~  
225 ~~by death or by life imprisonment, the child shall be sentenced~~  
226 ~~as an adult. If the juvenile is not found to have committed the~~  
227 ~~indictable offense but is found to have committed a lesser~~  
228 ~~included offense or any other offense for which he or she was~~  
229 ~~indicted as a part of the criminal episode, the court may~~  
230 ~~sentence under s. 985.565.~~

231 (4) (a) If ~~Once~~ a child has been indicted pursuant to this  
232 section and has been found to have committed any offense for



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233 which he or she was indicted as a part of the criminal episode,  
234 the child shall be handled thereafter ~~in every respect~~ as if an  
235 adult for any subsequent violation of state law, unless the  
236 court imposes juvenile sanctions under s. 985.565.

237 (b) ~~If~~ ~~When~~ a child has been indicted pursuant to this  
238 section, the court may ~~shall immediately~~ transfer and certify to  
239 the adult circuit court all related felony cases pertaining to  
240 the child, for prosecution of the child as an adult, which have  
241 not yet resulted in a plea of guilty or nolo contendere or in  
242 which a finding of guilt has not been made. If the child is  
243 acquitted of all charged offenses or lesser included offenses  
244 contained in the indictment case, any ~~all~~ felony cases that were  
245 transferred to adult court pursuant to this paragraph shall be  
246 subject to the same penalties such cases were subject to before  
247 being transferred to adult court.

248 Section 3. Subsection (1), paragraph (c) of subsection (3),  
249 and subsection (4) of section 985.565, Florida Statutes, are  
250 amended to read:

251 985.565 Sentencing powers; procedures; alternatives for  
252 juveniles prosecuted as adults.—

253 (1) POWERS OF DISPOSITION.—

254 (a) A child who is found to have committed a violation of  
255 law may, as an alternative to adult dispositions, be committed  
256 to the department for treatment in an appropriate program for  
257 children outside the adult correctional system or be placed on  
258 juvenile probation.

259 (b) In determining whether to impose juvenile or ~~sanctions~~  
260 ~~instead of~~ adult sanctions, the court shall consider the  
261 following criteria:

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262 1. The seriousness of the offense to the community and  
263 whether the protection of the community would be best served ~~be~~  
264 ~~protected~~ by juvenile or adult sanctions.

265 2. The extent of the child's participation in the offense.

266 3. The effect, if any, of familial or peer pressure on the  
267 child's actions.

268 ~~4.2.~~ Whether the offense was committed in an aggressive,  
269 violent, premeditated, or willful manner.

270 ~~5.3.~~ Whether the offense was against persons or against  
271 property, with greater weight being given to offenses against  
272 persons, especially if personal injury resulted.

273 ~~6.4.~~ The sophistication and maturity of the child,  
274 including: offender

275 a. The child's age, maturity, intellectual capacity, and  
276 mental and emotional health at the time of the offense.

277 b. The child's background, including his or her family,  
278 home, and community environment.

279 c. The effect, if any, of immaturity, impetuosity, or  
280 failure to appreciate the risks and consequences on the child's  
281 participation in the offense.

282 d. The effect, if any, of characteristics attributable to  
283 the child's age on the child's judgment.

284 ~~7.5.~~ The record and previous history of the child ~~offender,~~  
285 including:

286 a. Previous contacts with the Department of Corrections,  
287 the Department of Juvenile Justice, the former Department of  
288 Health and Rehabilitative Services, or the Department of  
289 Children and Families, and the adequacy and appropriateness of  
290 the services provided to address the child's needs ~~law~~

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291 ~~enforcement agencies, and the courts.~~

292 b. Prior periods of probation.

293 c. Prior adjudications that the offender committed a  
294 delinquent act or violation of law as a child.

295 d. Prior commitments to the Department of Juvenile Justice,  
296 the former Department of Health and Rehabilitative Services, the  
297 Department of Children and Families, or other facilities or  
298 institutions, and the adequacy and appropriateness of the  
299 services provided to address the child's needs.

300 e. Previous contacts with law enforcement agencies and the  
301 courts.

302 f. History of abuse, abandonment or neglect, foster care  
303 placements, failed adoption, fetal alcohol syndrome, exposure to  
304 controlled substances at birth, and below-average intellectual  
305 functioning.

306 g. Identification of the child as having a disability or  
307 having previously received mental health services or treatment.

308 ~~8.6.~~ The prospects for adequate protection of the public  
309 and the likelihood of deterrence and reasonable rehabilitation  
310 of the offender if assigned to services and facilities of the  
311 Department of Juvenile Justice.

312 ~~9.7.~~ Whether the Department of Juvenile Justice has  
313 appropriate programs, facilities, and services immediately  
314 available.

315 ~~8.~~ ~~Whether adult sanctions would provide more appropriate~~  
316 ~~punishment and deterrence to further violations of law than the~~  
317 ~~imposition of juvenile sanctions.~~

318 10. Whether the Department of Corrections has appropriate  
319 programs, facilities, and services immediately available.

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320 (c) The adult court shall render an order including  
321 specific findings of fact and the reasons for its decision. The  
322 order shall be reviewable on appeal under s. 985.534 and the  
323 Florida Rules of Appellate Procedure.

324 (3) SENTENCING HEARING.—

325 (c) The court may receive and consider any other relevant  
326 and material evidence, including other reports, written or oral,  
327 in its effort to determine the action to be taken with regard to  
328 the child, and may rely upon such evidence to the extent of its  
329 probative value even if the evidence would not be competent in  
330 an adjudicatory hearing. The court shall consider any reports  
331 that may assist it, including prior predisposition reports,  
332 psychosocial assessments, individualized educational programs,  
333 developmental assessments, school records, abuse or neglect  
334 reports, home studies, protective investigations, and  
335 psychological and psychiatric evaluations. The child, the  
336 child's defense counsel, and the state attorney have the right  
337 to examine these reports and to question the parties responsible  
338 for them at the hearing.

339 (4) SENTENCING ALTERNATIVES.—

340 (a) ~~Adult Sanctions.~~—

341 ~~1. Cases prosecuted on indictment. If the child is found to~~  
342 ~~have committed the offense punishable by death or life~~  
343 ~~imprisonment, the child shall be sentenced as an adult. If the~~  
344 ~~juvenile is not found to have committed the indictable offense~~  
345 ~~but is found to have committed a lesser included offense or any~~  
346 ~~other offense for which he or she was indicted as a part of the~~  
347 ~~criminal episode, the court may sentence as follows:~~

348 ~~a. As an adult;~~

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349 ~~b. Under chapter 958; or~~  
350 ~~e. As a juvenile under this section.~~  
351 ~~2. Other cases.~~—If a child who has been transferred for  
352 criminal prosecution pursuant to information or waiver of  
353 juvenile court jurisdiction is found to have committed a  
354 violation of state law or a lesser included offense for which he  
355 or she was charged as a part of the criminal episode, the court  
356 may sentence as follows:  
357 1.a. As an adult;  
358 2.b. As a youthful offender under chapter 958; or  
359 3.e. As a juvenile under this section.  
360 ~~3. Notwithstanding any other provision to the contrary, if~~  
361 ~~the state attorney is required to file a motion to transfer and~~  
362 ~~certify the juvenile for prosecution as an adult under s.~~  
363 ~~985.556(3) and that motion is granted, or if the state attorney~~  
364 ~~is required to file an information under s. 985.557(2)(a) or~~  
365 ~~(b), the court must impose adult sanctions.~~  
366 (b)4. Findings.—The court must ~~Any sentence imposing adult~~  
367 ~~sanctions is presumed appropriate, and the court is not required~~  
368 ~~to set forth specific findings or enumerate the criteria in this~~  
369 ~~subsection as any basis for its decision to impose adult~~  
370 ~~sanctions.~~  
371 (c)5. Restitution.—When a child has been transferred for  
372 criminal prosecution as an adult and has been found to have  
373 committed a violation of state law, the disposition of the case  
374 may include the enforcement of any restitution ordered in any  
375 juvenile proceeding.  
376 (d)(b) Juvenile sanctions.—If a juvenile sentence is ~~For~~  
377 ~~juveniles transferred to adult court but who do not qualify for~~

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378 ~~such transfer under s. 985.556(3) or s. 985.557(2) (a) or (b),~~  
379 ~~the court may impose juvenile sanctions under this paragraph. If~~  
380 ~~juvenile sentences are imposed, the court shall, under this~~  
381 ~~paragraph, adjudge the child to have committed a delinquent act.~~  
382 ~~Adjudication of delinquency shall not be deemed a conviction,~~  
383 ~~nor shall it operate to impose any of the civil disabilities~~  
384 ~~ordinarily resulting from a conviction. The court shall impose~~  
385 ~~an adult sanction or a juvenile sanction and may not sentence~~  
386 ~~the child to a combination of adult and juvenile punishments. An~~  
387 ~~adult sanction or a juvenile sanction may include enforcement of~~  
388 ~~an order of restitution or probation previously ordered in any~~  
389 ~~juvenile proceeding. However, if the court imposes a juvenile~~  
390 ~~sanction and the department determines that the sanction is~~  
391 ~~unsuitable for the child, the department shall return custody of~~  
392 ~~the child to the sentencing court for further proceedings,~~  
393 ~~including the imposition of adult sanctions. Upon adjudicating a~~  
394 ~~child delinquent under subsection (1), the court may:~~

395       1. Place the child in a probation program under the  
396 supervision of the department for an indeterminate period of  
397 time until the child reaches the age of 19 years or sooner if  
398 discharged by order of the court.

399       2. Commit the child to the department for treatment in an  
400 appropriate program for children for an indeterminate period of  
401 time until the child is 21 or sooner if discharged by the  
402 department. The department shall notify the court of its intent  
403 to discharge no later than 14 days prior to discharge. Failure  
404 of the court to timely respond to the department's notice shall  
405 be considered approval for discharge.

406       3. Order disposition under ss. 985.435, 985.437, 985.439,

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407 985.441, 985.45, and 985.455 as an alternative to youthful  
408 offender or adult sentencing if the court determines not to  
409 impose youthful offender or adult sanctions.

410 (e)~~(e)~~ *Adult sanctions upon failure of juvenile sanctions.*—  
411 If a child proves not to be suitable to a commitment program,  
412 juvenile probation program, or treatment program under paragraph  
413 (d) ~~(b)~~, the department shall provide the sentencing court with  
414 a written report outlining the basis for its objections to the  
415 juvenile sanction and shall simultaneously provide a copy of the  
416 report to the state attorney and the defense counsel. The  
417 department shall schedule a hearing within 30 days. Upon  
418 hearing, the court may revoke the previous adjudication, impose  
419 an adjudication of guilt, and impose any sentence which it may  
420 lawfully impose, giving credit for all time spent by the child  
421 in the department. The court may also classify the child as a  
422 youthful offender under s. 958.04, if appropriate. For purposes  
423 of this paragraph, a child may be found not suitable to a  
424 commitment program, community control program, or treatment  
425 program under paragraph (d) ~~(b)~~ if the child commits a new  
426 violation of law while under juvenile sanctions, if the child  
427 commits any other violation of the conditions of juvenile  
428 sanctions, or if the child's actions are otherwise determined by  
429 the court to demonstrate a failure of juvenile sanctions.

430 (f)~~(d)~~ *Further proceedings heard in adult court.*—When a  
431 child is sentenced to juvenile sanctions, further proceedings  
432 involving those sanctions shall continue to be heard in the  
433 adult court.

434 (g)~~(e)~~ *School attendance.*—If the child is attending or is  
435 eligible to attend public school and the court finds that the

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436 victim or a sibling of the victim in the case is attending or  
437 may attend the same school as the child, the court placement  
438 order shall include a finding pursuant to the proceeding  
439 described in s. 985.455(2), regardless of whether adjudication  
440 is withheld.

441  
442 It is the intent of the Legislature that the criteria and  
443 guidelines in this subsection are mandatory and that a  
444 determination of disposition under this subsection is subject to  
445 the right of the child to appellate review under s. 985.534.

446 Section 4. Subsection (1) of section 985.556, Florida  
447 Statutes, is amended to read:

448 985.556 Waiver of juvenile court jurisdiction; hearing.—

449 (1) VOLUNTARY WAIVER.—The court shall transfer and certify  
450 a child's criminal case for trial as an adult if the child is  
451 alleged to have committed a violation of law and, before ~~prior~~  
452 ~~to~~ the commencement of an adjudicatory hearing, the child,  
453 joined by a parent or, in the absence of a parent, by the  
454 guardian or guardian ad litem, demands in writing to be tried as  
455 an adult. Once a child has been transferred for criminal  
456 prosecution pursuant to a voluntary waiver hearing and has been  
457 found to have committed the presenting offense or a lesser  
458 included offense, the child shall be handled thereafter in every  
459 respect as an adult for any subsequent violation of state law,  
460 unless the court imposes juvenile sanctions under s.  
461 985.565(4)(d) ~~s. 985.565(4)(b)~~.

462 Section 5. Subsection (2) of section 985.04, Florida  
463 Statutes, is amended to read:

464 985.04 Oaths; records; confidential information.—



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465 (2) Notwithstanding any other provisions of this chapter,  
466 the name, photograph, address, and crime or arrest report of a  
467 child:

468 (a) Taken into custody if the child has been taken into  
469 custody by a law enforcement officer for a violation of law  
470 which, if committed by an adult, would be a felony;

471 (b) Found by a court to have committed three or more  
472 violations of law which, if committed by an adult, would be  
473 misdemeanors;

474 (c) Transferred to the adult system under s. 985.557,  
475 indicted under s. 985.56, or waived under s. 985.556; or

476 ~~(d) Taken into custody by a law enforcement officer for a  
477 violation of law subject to s. 985.557(2) (b) or (d); or~~

478 (d)~~(e)~~ Transferred to the adult system but sentenced to the  
479 juvenile system under s. 985.565

480

481 shall not be considered confidential and exempt from s.  
482 119.07(1) solely because of the child's age.

483 Section 6. For the purpose of incorporating the amendment  
484 made by this act to section 985.557, Florida Statutes, in a  
485 reference thereto, subsection (1) of section 985.15, Florida  
486 Statutes, is reenacted to read:

487 985.15 Filing decisions.—

488 (1) The state attorney may in all cases take action  
489 independent of the action or lack of action of the juvenile  
490 probation officer and shall determine the action that is in the  
491 best interest of the public and the child. If the child meets  
492 the criteria requiring prosecution as an adult under s. 985.556,  
493 the state attorney shall request the court to transfer and

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494 certify the child for prosecution as an adult or shall provide  
495 written reasons to the court for not making such a request. In  
496 all other cases, the state attorney may:

- 497 (a) File a petition for dependency;  
498 (b) File a petition under chapter 984;  
499 (c) File a petition for delinquency;  
500 (d) File a petition for delinquency with a motion to  
501 transfer and certify the child for prosecution as an adult;  
502 (e) File an information under s. 985.557;  
503 (f) Refer the case to a grand jury;  
504 (g) Refer the child to a diversionary, pretrial  
505 intervention, arbitration, or mediation program, or to some  
506 other treatment or care program if such program commitment is  
507 voluntarily accepted by the child or the child's parents or  
508 legal guardian; or  
509 (h) Decline to file.

510 Section 7. For the purpose of incorporating the amendment  
511 made by this act to section 985.557, Florida Statutes, in a  
512 reference thereto, subsection (5) of section 985.265, Florida  
513 Statutes, is reenacted to read:

514 985.265 Detention transfer and release; education; adult  
515 jails.-

516 (5) The court shall order the delivery of a child to a jail  
517 or other facility intended or used for the detention of adults:

- 518 (a) When the child has been transferred or indicted for  
519 criminal prosecution as an adult under part X, except that the  
520 court may not order or allow a child alleged to have committed a  
521 misdemeanor who is being transferred for criminal prosecution  
522 pursuant to either s. 985.556 or s. 985.557 to be detained or

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523 held in a jail or other facility intended or used for the  
524 detention of adults; however, such child may be held temporarily  
525 in a detention facility; or

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

528

529 The child shall be housed separately from adult inmates to  
530 prohibit a child from having regular contact with incarcerated  
531 adults, including trustees. "Regular contact" means sight and  
532 sound contact. Separation of children from adults shall permit  
533 no more than haphazard or accidental contact. The receiving jail  
534 or other facility shall contain a separate section for children  
535 and shall have an adequate staff to supervise and monitor the  
536 child's activities at all times. Supervision and monitoring of  
537 children includes physical observation and documented checks by  
538 jail or receiving facility supervisory personnel at intervals  
539 not to exceed 10 minutes. This subsection does not prohibit  
540 placing two or more children in the same cell. Under no  
541 circumstances shall a child be placed in the same cell with an  
542 adult.

543 Section 8. For the purpose of incorporating the amendment  
544 made by this act to section 985.557, Florida Statutes, in a  
545 reference thereto, subsection (3) of section 985.556, Florida  
546 Statutes, is reenacted to read:

547 985.556 Waiver of juvenile court jurisdiction; hearing.—

548 (3) INVOLUNTARY MANDATORY WAIVER.—

549 (a) If the child was 14 years of age or older, and if the  
550 child has been previously adjudicated delinquent for an act  
551 classified as a felony, which adjudication was for the

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552 commission of, attempt to commit, or conspiracy to commit  
553 murder, sexual battery, armed or strong-armed robbery,  
554 carjacking, home-invasion robbery, aggravated battery,  
555 aggravated assault, or burglary with an assault or battery, and  
556 the child is currently charged with a second or subsequent  
557 violent crime against a person; or

558 (b) If the child was 14 years of age or older at the time  
559 of commission of a fourth or subsequent alleged felony offense  
560 and the child was previously adjudicated delinquent or had  
561 adjudication withheld for or was found to have committed, or to  
562 have attempted or conspired to commit, three offenses that are  
563 felony offenses if committed by an adult, and one or more of  
564 such felony offenses involved the use or possession of a firearm  
565 or violence against a person;

566

567 the state attorney shall request the court to transfer and  
568 certify the child for prosecution as an adult or shall provide  
569 written reasons to the court for not making such request, or  
570 proceed under s. 985.557(1). Upon the state attorney's request,  
571 the court shall either enter an order transferring the case and  
572 certifying the case for trial as if the child were an adult or  
573 provide written reasons for not issuing such an order.

574 Section 9. For the purpose of incorporating the amendment  
575 made by this act to section 985.565, Florida Statutes, in a  
576 reference thereto, subsection (3) of section 985.514, Florida  
577 Statutes, is reenacted to read:

578 985.514 Responsibility for cost of care; fees.—

579 (3) When the court under s. 985.565 orders any child  
580 prosecuted as an adult to be supervised by or committed to the

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581 department for treatment in any of the department's programs for  
582 children, the court shall order the child's parents to pay fees  
583 as provided in s. 985.039.

584 Section 10. For the purpose of incorporating the amendment  
585 made by this act to section 985.565, Florida Statutes, in a  
586 reference thereto, paragraph (a) of subsection (5) of section  
587 985.556, Florida Statutes, is reenacted to read:

588 985.556 Waiver of juvenile court jurisdiction; hearing.—

589 (5) EFFECT OF ORDER WAIVING JURISDICTION.—

590 (a) Once a child has been transferred for criminal  
591 prosecution pursuant to an involuntary waiver hearing and has  
592 been found to have committed the presenting offense or a lesser  
593 included offense, the child shall thereafter be handled in every  
594 respect as an adult for any subsequent violation of state law,  
595 unless the court imposes juvenile sanctions under s. 985.565.

596 Section 11. This act shall take effect July 1, 2016.