



206646

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2017	.	
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The Committee on Criminal Justice (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 944.292, Florida
Statutes, is amended to read:

944.292 Suspension of civil rights.—

(1) Upon conviction of a felony as defined in s. 10, Art. X
of the State Constitution, the civil rights of the person
convicted, except for children convicted as adults pursuant to



206646

11 s. 985.557, shall be suspended in Florida until such rights are
12 restored by a full pardon, conditional pardon, or restoration of
13 civil rights granted pursuant to s. 8, Art. IV of the State
14 Constitution.

15 Section 2. Subsections (2) through (5) of section 985.556,
16 Florida Statutes, are amended, and subsection (1) of that
17 section is republished, to read:

18 985.556 Waiver of juvenile court jurisdiction; hearing.—

19 (1) VOLUNTARY WAIVER.—The court shall transfer and certify
20 a child's criminal case for trial as an adult if the child is
21 alleged to have committed a violation of law and, prior to the
22 commencement of an adjudicatory hearing, the child, joined by a
23 parent or, in the absence of a parent, by the guardian or
24 guardian ad litem, demands in writing to be tried as an adult.
25 Once a child has been transferred for criminal prosecution
26 pursuant to a voluntary waiver hearing and has been found to
27 have committed the presenting offense or a lesser included
28 offense, the child shall be handled thereafter in every respect
29 as an adult for any subsequent violation of state law, unless
30 the court imposes juvenile sanctions under s. 985.565(4) (b).

31 (2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided in~~
32 ~~subsection (3),~~ The state attorney may file a motion requesting
33 the court to transfer the child for criminal prosecution if the
34 child was 14 years of age or older at the time the alleged
35 delinquent act or violation of law was committed.

36 ~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

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



206646

40 ~~commission of, attempt to commit, or conspiracy to commit~~
41 ~~murder, sexual battery, armed or strong-armed robbery,~~
42 ~~earjacking, home invasion robbery, aggravated battery,~~
43 ~~aggravated assault, or burglary with an assault or battery, and~~
44 ~~the child is currently charged with a second or subsequent~~
45 ~~violent crime against a person; or~~

46 ~~(b) If the child was 14 years of age or older at the time~~
47 ~~of commission of a fourth or subsequent alleged felony offense~~
48 ~~and the child was previously adjudicated delinquent or had~~
49 ~~adjudication withheld for or was found to have committed, or to~~
50 ~~have attempted or conspired to commit, three offenses that are~~
51 ~~felony offenses if committed by an adult, and one or more of~~
52 ~~such felony offenses involved the use or possession of a firearm~~
53 ~~or violence against a person;~~

54
55 ~~the state attorney shall request the court to transfer and~~
56 ~~certify the child for prosecution as an adult or shall provide~~
57 ~~written reasons to the court for not making such request, or~~
58 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~
59 ~~the court shall either enter an order transferring the case and~~
60 ~~certifying the case for trial as if the child were an adult or~~
61 ~~provide written reasons for not issuing such an order.~~

62 ~~(3)(4) WAIVER HEARING BEFORE A JUDGE.~~-

63 (a) Within 7 days, excluding Saturdays, Sundays, and legal
64 holidays, after the date a petition alleging that a child has
65 committed a delinquent act or violation of law has been filed,
66 or later with the approval of the court, but before an
67 adjudicatory hearing and after considering the recommendation of
68 the juvenile probation officer, the state attorney may file a



206646

69 motion requesting the court to transfer the child for criminal
70 prosecution.

71 (b) After the filing of the motion of the state attorney,
72 summonses must be issued and served in conformity with s.
73 985.319. A copy of the motion and a copy of the delinquency
74 petition, if not already served, must be attached to each
75 summons.

76 (c) The court shall conduct a hearing on all transfer
77 request motions for the purpose of determining whether a child
78 should be transferred. In making its determination, the court
79 shall consider:

80 1. The seriousness of the alleged offense to the community
81 and whether the protection of the community is best served by
82 transferring the child for adult sanctions.

83 2. Whether the alleged offense was committed in an
84 aggressive, violent, premeditated, or willful manner.

85 3. Whether the alleged offense was against persons or
86 against property, greater weight being given to offenses against
87 persons, especially if personal injury resulted.

88 4. The probable cause as found in the report, affidavit, or
89 complaint.

90 ~~5. The desirability of trial and disposition of the entire~~
91 ~~offense in one court when the child's associates in the alleged~~
92 ~~crime are adults or children who are to be tried as adults.~~

93 ~~5.6.~~ The sophistication, and maturity, and mental
94 development of the child.

95 ~~6.7.~~ The record and previous history of the child,
96 including:

97 a. Previous contacts with the department, the Department of



206646

98 Corrections, the former Department of Health and Rehabilitative
99 Services, the Department of Children and Families, other law
100 enforcement agencies, and courts;

101 b. Prior periods of probation;

102 c. Prior adjudications that the child committed a
103 delinquent act or violation of law, greater weight being given
104 if the child has previously been found by a court to have
105 committed a delinquent act or violation of law involving an
106 offense classified as a felony or has twice previously been
107 found to have committed a delinquent act or violation of law
108 involving an offense classified as a misdemeanor; and

109 d. Prior commitments to institutions.

110 ~~7.8-~~ The prospects for adequate protection of the public
111 and the likelihood of reasonable rehabilitation of the child, if
112 the child is found to have committed the alleged offense, by the
113 use of procedures, services, and facilities currently available
114 to the court.

115 (d) Prior to a hearing on the transfer request motion by
116 the state attorney, a study and report to the court relevant to
117 the factors in paragraph (c) must be made in writing by an
118 authorized agent of the department. The child and the child's
119 parents or legal guardians and counsel and the state attorney
120 shall have the right to examine these reports and to question
121 the parties responsible for them at the hearing.

122 (e) Any decision to transfer a child for criminal
123 prosecution must be in writing and include consideration of, and
124 findings of fact with respect to, all criteria in paragraph (c).
125 The court shall render an order including a specific finding of
126 fact and the reasons for a decision to impose adult sanctions.



206646

127 The order shall be reviewable on appeal under s. 985.534 and the
128 Florida Rules of Appellate Procedure.

129 (4)~~(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

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

136 (b) When a child is transferred for criminal prosecution as
137 an adult, the court shall immediately transfer and certify to
138 the adult circuit court all felony cases pertaining to the
139 child, for prosecution of the child as an adult, which have not
140 yet resulted in a plea of guilty or nolo contendere or in which
141 a finding of guilt has not been made. If the child is acquitted
142 of all charged offenses or lesser included offenses contained in
143 the original case transferred to adult court, all felony cases
144 that were transferred to adult court under this paragraph shall
145 be subject to the same penalties such cases were subject to
146 before being transferred to adult court.

147 Section 3. Section 985.557, Florida Statutes, is amended to
148 read:

149 985.557 Prosecuting children as adults ~~Direct filing of an~~
150 ~~information; discretionary and mandatory~~ criteria.—

151 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
152 ~~FILE.~~—

153 (a) With respect to any child who was 14 or 15 years of age
154 at the time the alleged offense was committed, the state
155 attorney may file an information when in the state attorney's



206646

156 judgment and discretion the public interest requires that adult
157 sanctions be considered or imposed and when the offense charged
158 is for the commission of, attempt to commit, or conspiracy to
159 commit:

- 160 1. Arson;
- 161 2. Sexual battery;
- 162 3. Robbery while carrying a firearm in violation of s.
163 812.13(3) (a);
- 164 4. Kidnapping;
- 165 5. Aggravated child abuse;
- 166 6. Aggravated assault;
- 167 7. Aggravated stalking;
- 168 8. Murder;
- 169 9. Manslaughter;
- 170 10. Unlawful throwing, placing, or discharging of a
171 destructive device or bomb;
- 172 11. Armed burglary in violation of s. 810.02(2) (b) only if
173 there is another person in the dwelling, structure, or
174 conveyance at the time the offender enters or remains or
175 ~~specified burglary of a dwelling or structure in violation of s.~~
176 ~~810.02(2) (e),~~ or burglary with an assault or battery in
177 violation of s. 810.02(2) (a);
- 178 12. Aggravated battery resulting in great bodily harm,
179 permanent disability, or permanent disfigurement to a person;
- 180 13. Any lewd or lascivious offense committed upon or in the
181 presence of a person less than 16 years of age;
- 182 14. Carrying, displaying, using, threatening, or attempting
183 to use a weapon or firearm during the commission of a felony;
- 184 ~~15. Grand theft in violation of s. 812.014(2) (a);~~



206646

185 ~~15.16.~~ Possessing or discharging any weapon or firearm on
186 school property in violation of s. 790.115;

187 ~~16.17.~~ Home invasion robbery; or

188 ~~17.18.~~ Carjacking, ~~or~~

189 ~~19. Grand theft of a motor vehicle in violation of s.~~
190 ~~812.014(2)(c)6. or grand theft of a motor vehicle valued at~~
191 ~~\$20,000 or more in violation of s. 812.014(2)(b) if the child~~
192 ~~has a previous adjudication for grand theft of a motor vehicle~~
193 ~~in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

194 (b) With respect to any child who was 16 or 17 years of age
195 at the time the alleged offense was committed, the state
196 attorney may file an information when in the state attorney's
197 judgment and discretion the public interest requires that adult
198 sanctions be considered or imposed, except when the offense
199 charged is for the commission of, attempt to commit, or
200 conspiracy to commit grand theft, burglary in violation of s.
201 810.02 (3)(b) or (4), or possession of a controlled substance.

202 However, the state attorney may not file an information on a
203 child charged with a misdemeanor, unless the child has had at
204 least two previous adjudications or adjudications withheld for
205 delinquent acts, one of which involved an offense classified as
206 a felony under state law.

207 (c)1. A decision under this subsection to prosecute a child
208 as an adult, or a decision not to prosecute a child eligible for
209 prosecution as an adult, shall be documented in writing by the
210 state attorney in charge of the case. The state attorney shall
211 file the document with the court at the disposition of the case
212 and include all of the following information in the written
213 decision:



206646

- 214 a. Whether adult codefendants were involved in the case.
215 b. The length of time the child spent in a detention
216 facility or jail awaiting disposition.
217 c. Whether any discovery has been conducted on the case at
218 the time of the child's transfer to adult court.
219 d. Whether the child waived the right to a trial.
220 e. If the decision to transfer or not to transfer to adult
221 court resulted in a plea agreement, the details of the plea
222 agreement, including previous plea offers made by the state but
223 not accepted by the child, and any conditions placed on the plea
224 offer.
225 f. Whether the judge sentenced the child to a disposition
226 other than what the prosecutor was offering in exchange for the
227 child not being prosecuted as an adult.
228 g. Whether the child had to waive statutory limits on
229 secure detention in order to avoid being prosecuted as an adult,
230 and, if available, the amount of time the child who waived
231 secure detention limits actually spent in secure detention.
232 2. On or before the 15th of each month, the state attorney
233 in each judicial circuit shall collect the information specified
234 in subparagraph 1. for all cases disposed of the previous month
235 and submit that documentation to the department for data
236 collection.
237 ~~(2) MANDATORY DIRECT FILE.--~~
238 ~~(a) With respect to any child who was 16 or 17 years of age~~
239 ~~at the time the alleged offense was committed, the state~~
240 ~~attorney shall file an information if the child has been~~
241 ~~previously adjudicated delinquent for an act classified as a~~
242 ~~felony, which adjudication was for the commission of, attempt to~~



206646

243 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~
244 ~~strong-armed robbery, carjacking, home-invasion robbery,~~
245 ~~aggravated battery, or aggravated assault, and the child is~~
246 ~~currently charged with a second or subsequent violent crime~~
247 ~~against a person.~~

248 ~~(b) With respect to any child 16 or 17 years of age at the~~
249 ~~time an offense classified as a forcible felony, as defined in~~
250 ~~s. 776.08, was committed, the state attorney shall file an~~
251 ~~information if the child has previously been adjudicated~~
252 ~~delinquent or had adjudication withheld for three acts~~
253 ~~classified as felonies each of which occurred at least 45 days~~
254 ~~apart from each other. This paragraph does not apply when the~~
255 ~~state attorney has good cause to believe that exceptional~~
256 ~~circumstances exist which preclude the just prosecution of the~~
257 ~~juvenile in adult court.~~

258 ~~(c) The state attorney must file an information if a child,~~
259 ~~regardless of the child's age at the time the alleged offense~~
260 ~~was committed, is alleged to have committed an act that would be~~
261 ~~a violation of law if the child were an adult, that involves~~
262 ~~stealing a motor vehicle, including, but not limited to, a~~
263 ~~violation of s. 812.133, relating to carjacking, or s.~~
264 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~
265 ~~while the child was in possession of the stolen motor vehicle~~
266 ~~the child caused serious bodily injury to or the death of a~~
267 ~~person who was not involved in the underlying offense. For~~
268 ~~purposes of this section, the driver and all willing passengers~~
269 ~~in the stolen motor vehicle at the time such serious bodily~~
270 ~~injury or death is inflicted shall also be subject to mandatory~~
271 ~~transfer to adult court. "Stolen motor vehicle," for the~~



206646

272 ~~purposes of this section, means a motor vehicle that has been~~
273 ~~the subject of any criminal wrongful taking. For purposes of~~
274 ~~this section, "willing passengers" means all willing passengers~~
275 ~~who have participated in the underlying offense.~~

276 ~~(d)1. With respect to any child who was 16 or 17 years of~~
277 ~~age at the time the alleged offense was committed, the state~~
278 ~~attorney shall file an information if the child has been charged~~
279 ~~with committing or attempting to commit an offense listed in s.~~
280 ~~775.087(2) (a)1.a.-p., and, during the commission of or attempt~~
281 ~~to commit the offense, the child:~~

282 ~~a. Actually possessed a firearm or destructive device, as~~
283 ~~those terms are defined in s. 790.001.~~

284 ~~b. Discharged a firearm or destructive device, as described~~
285 ~~in s. 775.087(2) (a)2.~~

286 ~~c. Discharged a firearm or destructive device, as described~~
287 ~~in s. 775.087(2) (a)3., and, as a result of the discharge, death~~
288 ~~or great bodily harm was inflicted upon any person.~~

289 ~~2. Upon transfer, any child who is:~~

290 ~~a. Charged under sub-subparagraph 1.a. and who has been~~
291 ~~previously adjudicated or had adjudication withheld for a~~
292 ~~forcible felony offense or any offense involving a firearm, or~~
293 ~~who has been previously placed in a residential commitment~~
294 ~~program, shall be subject to sentencing under s. 775.087(2) (a),~~
295 ~~notwithstanding s. 985.565.~~

296 ~~b. Charged under sub-subparagraph 1.b. or sub-subparagraph~~
297 ~~1.c., shall be subject to sentencing under s. 775.087(2) (a),~~
298 ~~notwithstanding s. 985.565.~~

299 ~~3. Upon transfer, any child who is charged under this~~
300 ~~paragraph, but who does not meet the requirements specified in~~



206646

301 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~
302 ~~if the court imposes a juvenile sanction, the court must commit~~
303 ~~the child to a high risk or maximum risk juvenile facility.~~

304 ~~4. This paragraph shall not apply if the state attorney has~~
305 ~~good cause to believe that exceptional circumstances exist that~~
306 ~~preclude the just prosecution of the child in adult court.~~

307 ~~(d)5.~~ The Department of Corrections shall make every
308 reasonable effort to ensure that any child who is 14 years of
309 age but has not yet reached the age of 18 and 16 or 17 years of
310 age who is convicted and sentenced under this section must be
311 ~~paragraph be~~ completely separated such that there is no physical
312 contact with adult offenders in the facility, to the extent that
313 it is consistent with chapter 958.

314 ~~(2)(3)~~ EFFECT OF PROSECUTION OF CHILDREN AS ADULTS DIRECT
315 FILE.—

316 (a) Once a child has been transferred for criminal
317 prosecution pursuant to an information and has been found to
318 have committed the presenting offense or a lesser included
319 offense, the child shall be handled thereafter in every respect
320 as if an adult for any subsequent violation of state law, unless
321 the court imposes juvenile sanctions under s. 985.565.

322 (b) When a child is transferred for criminal prosecution as
323 an adult, the court shall immediately transfer and certify to
324 the adult circuit court all felony cases pertaining to the
325 child, for prosecution of the child as an adult, which have not
326 yet resulted in a plea of guilty or nolo contendere or in which
327 a finding of guilt has not been made. If a child is acquitted of
328 all charged offenses or lesser included offenses contained in
329 the original case transferred to adult court, all felony cases



206646

330 that were transferred to adult court as a result of this
331 paragraph shall be subject to the same penalties to which such
332 cases would have been subject before being transferred to adult
333 court.

334 (c) When a child has been transferred for criminal
335 prosecution as an adult and has been found to have committed a
336 violation of state law, the disposition of the case may be made
337 under s. 985.565 and may include the enforcement of any
338 restitution ordered in any juvenile proceeding.

339 (3) FITNESS HEARING BEFORE A JUDGE.—A child who is
340 transferred to adult court under this section may request, in
341 writing, a hearing before the court to determine whether he or
342 she shall remain in adult court. The adult court, in determining
343 whether public safety would be best served by retaining
344 jurisdiction, shall consider the seriousness of the offense; the
345 extent of the child's alleged participation or role in the
346 offense; the sophistication, maturity, and mental development of
347 the child; any prior adjudications or adjudications withheld of
348 the child; and any other consideration set forth in s.
349 985.556(3)(c). The adult court may, based on these
350 considerations, transfer the case back to juvenile court.

351 (4) TRANSFER PROHIBITION.—Notwithstanding any other law, a
352 child who is eligible for prosecution as an adult and who has
353 previously been found to be incompetent but has not been
354 restored to competency by a court may not be transferred to
355 adult court for criminal prosecution until the child's
356 competency has been restored.

357 (5) DATA COLLECTION RELATING TO PROSECUTING CHILDREN AS
358 ADULTS.—



206646

359 (a) Beginning March 1, 2018, the department shall collect
360 data relating to children who qualify to be prosecuted as adults
361 under this section and s. 985.556 regardless of the outcome of
362 the case, including, but not limited to:

- 363 1. Age.
364 2. Race and ethnicity.
365 3. Gender.
366 4. Circuit and county of residence.
367 5. Circuit and county of offense.
368 6. Prior adjudications or adjudications withheld.
369 7. Prior periods of probation including any violations of
370 probation.

371 8. Previous contacts with law enforcement agencies or the
372 court which resulted in a civil citation, arrest, or charges
373 being filed with the state.

374 9. Initial charges.

375 10. Charges at disposition.

376 11. Whether child codefendants were involved who were
377 transferred to adult court.

378 12. Whether the child was represented by counsel or whether
379 the child waived counsel.

380 13. Risk assessment instrument score.

381 14. The child's medical, mental health, substance abuse, or
382 trauma history.

383 15. The child's history of mental impairment or disability-
384 related accommodations.

385 16. The child's history of abuse or neglect.

386 17. The child's history of foster care placements,
387 including the number of prior placements.



206646

388 18. Whether the child has below-average intellectual
389 functioning.

390 19. Whether the child has received mental health services
391 or treatment.

392 20. Whether the child has been the subject of a child-in-
393 need-of-services or families-in-need-of-services petition or a
394 dependency petition.

395 21. Whether the child was transferred for criminal
396 prosecution as an adult.

397 22. The case resolution in juvenile court.

398 23. The case resolution in adult court.

399 24. Information generated by the office of the state
400 attorney in each judicial circuit under subparagraph (1)(c)1.

401 (b) Beginning March 1, 2018, for a child transferred for
402 criminal prosecution as an adult, the department shall also
403 collect:

404 1. Disposition data, including, but not limited to, whether
405 the child received adult sanctions, juvenile sanctions, or
406 diversion and, if sentenced to prison, the length of the prison
407 sentence or the enhanced sentence; and

408 2. Whether the child was previously found incompetent to
409 proceed in juvenile court.

410 (c) For every juvenile case transferred between July 1,
411 2016, and June 30, 2017, the department shall work with the
412 Office of Program Policy Analysis and Government Accountability
413 to generate a report analyzing the aggregated data. The
414 department must provide this report to the Governor, the
415 President of the Senate, and the Speaker of the House of
416 Representatives by January 31, 2018.



206646

417 (d) The department must work with the Office of Program
418 Policy Analysis and Government Accountability to generate a
419 report analyzing the aggregated data under paragraphs (a) and
420 (b) on an annual basis. The department must provide this report
421 annually to the Governor, the President of the Senate, and the
422 Speaker of the House of Representatives no later than January 31
423 of the following calendar year.

424 (6)~~(4)~~ An information filed pursuant to this section may
425 include all charges that are based on the same act, criminal
426 episode, or transaction as the primary offenses.

427 Section 4. Section 985.56, Florida Statutes, is amended to
428 read:

429 985.56 Indictment of a juvenile.—

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

438 (a) On the indicting offense punishable by death or by life
439 imprisonment; and

440 (b) On all other felonies or misdemeanors charged in the
441 indictment which are based on the same act or transaction as the
442 indicting offense punishable by death or by life imprisonment or
443 on one or more acts or transactions connected with the offense
444 punishable by death or by life imprisonment.

445 (2) An adjudicatory hearing may not be held until 21 days



206646

446 after the child is taken into custody and charged with having
447 committed an indictable offense punishable by death or by life
448 imprisonment, unless the state attorney advises the court in
449 writing that he or she does not intend to present the case to
450 the grand jury, or has presented the case to the grand jury and
451 the grand jury has not returned an indictment. If the court
452 receives such a notice from the state attorney, or if the grand
453 jury fails to act within the 21-day period, the court may
454 proceed as otherwise authorized under this part.

455 (3) Notwithstanding any other law, a child who is eligible
456 for indictment and who has a pending competency hearing in
457 juvenile court or who has been previously found to be
458 incompetent and has not been restored to competency by a court
459 may not be transferred to adult court for criminal prosecution
460 until the child's competency restored. A pending competency
461 hearing or a finding of incompetency tolls the time limits in
462 subsection (2). If the child is found to have committed the
463 offense punishable by death or by life imprisonment, the child
464 shall be sentenced as an adult. If the juvenile is not found to
465 have committed the indictable offense but is found to have
466 committed a lesser included offense or any other offense for
467 which he or she was indicted as a part of the criminal episode,
468 the court may sentence under s. 985.565.

469 (4) (a) If ~~Once~~ a child has been indicted pursuant to this
470 section and has been found to have committed any offense for
471 which he or she was indicted as a part of the criminal episode,
472 the child shall be handled thereafter in every respect as if an
473 adult for any subsequent violation of state law, unless the
474 court imposes juvenile sanctions under s. 985.565.



206646

475 (b) ~~If~~ When a child has been indicted pursuant to this
476 section, the court shall immediately transfer and certify to the
477 adult circuit court all felony cases pertaining to the child,
478 for prosecution of the child as an adult, which have not yet
479 resulted in a plea of guilty or nolo contendere or in which a
480 finding of guilt has not been made. If the child is acquitted of
481 all charged offenses or lesser included offenses contained in
482 the indictment case, all felony cases that were transferred to
483 adult court pursuant to this paragraph shall be subject to the
484 same penalties such cases were subject to before being
485 transferred to adult court.

486 Section 5. Subsection (1) and paragraphs (a) and (b) of
487 subsection (4) of section 985.565, Florida Statutes, are amended
488 to read:

489 985.565 Sentencing powers; procedures; alternatives for
490 juveniles prosecuted as adults.—

491 (1) POWERS OF DISPOSITION.—

492 (a) A child who is found to have committed a violation of
493 law may, as an alternative to adult dispositions, be committed
494 to the department for treatment in an appropriate program for
495 children outside the adult correctional system or be placed on
496 juvenile probation.

497 (b) In determining whether to impose juvenile sanctions
498 instead of adult sanctions, the court shall consider the
499 following criteria:

500 1. The seriousness of the offense to the community and
501 whether the protection of the community would be best served ~~be~~
502 ~~protected~~ by juvenile or adult sanctions.

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



206646

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

506 ~~4.2.~~ Whether the offense was committed in an aggressive,
507 violent, premeditated, or willful manner.

508 ~~5.3.~~ Whether the offense was against persons or against
509 property, with greater weight being given to offenses against
510 persons, especially if personal injury resulted.

511 ~~6.4.~~ The sophistication and maturity of the child,
512 including: ~~offender.~~

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

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

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

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

522 ~~7.5.~~ The record and previous history of the child offender,
523 including:

524 a. Previous contacts with the Department of Corrections,
525 the Department of Juvenile Justice, the former Department of
526 Health and Rehabilitative Services, or the Department of
527 Children and Families, and the adequacy and appropriateness of
528 the services provided to address the child's needs ~~law~~
529 enforcement agencies, and the courts.

530 b. Prior periods of probation.

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



206646

533 d. Prior commitments to the Department of Juvenile Justice,
534 the former Department of Health and Rehabilitative Services, the
535 Department of Children and Families, or other facilities or
536 institutions, and the adequacy and appropriateness of the
537 services provided to address the child's needs.

538 e. Previous contacts with law enforcement agencies and the
539 courts.

540 f. History of abuse, abandonment or neglect, or foster care
541 placements.

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

544 ~~8.6.~~ The prospects for adequate protection of the public
545 and the likelihood of deterrence and reasonable rehabilitation
546 of the offender if assigned to services and facilities of the
547 Department of Juvenile Justice.

548 ~~9.7.~~ Whether the Department of Juvenile Justice has
549 appropriate programs, facilities, and services immediately
550 available.

551 ~~10.8.~~ Whether adult sanctions would provide more
552 appropriate punishment and deterrence to further violations of
553 law than the imposition of juvenile sanctions.

554 11. Whether the Department of Corrections has appropriate
555 programs, facilities, and services immediately available.

556 (4) SENTENCING ALTERNATIVES.—

557 (a) *Adult sanctions.*—

558 ~~1. Cases prosecuted on indictment. If the child is found to~~
559 ~~have committed the offense punishable by death or life~~
560 ~~imprisonment, the child shall be sentenced as an adult. If the~~
561 ~~juvenile is not found to have committed the indictable offense~~



206646

562 ~~but is found to have committed a lesser included offense or any~~
563 ~~other offense for which he or she was indicted as a part of the~~
564 ~~criminal episode, the court may sentence as follows:~~

565 ~~a. As an adult;~~

566 ~~b. Under chapter 958; or~~

567 ~~c. As a juvenile under this section.~~

568 ~~1.2. Other cases.—~~If a child who has been transferred for
569 criminal prosecution pursuant to indictment, information, or
570 waiver of juvenile court jurisdiction is found to have committed
571 a violation of state law or a lesser included offense for which
572 he or she was charged as a part of the criminal episode, the
573 court may sentence as follows:

574 ~~a. As an adult;~~

575 ~~b. Under chapter 958; or~~

576 ~~c. As a juvenile under this section.~~

577 ~~3. Notwithstanding any other provision to the contrary, if~~
578 ~~the state attorney is required to file a motion to transfer and~~
579 ~~certify the juvenile for prosecution as an adult under s.~~
580 ~~985.556(3) and that motion is granted, or if the state attorney~~
581 ~~is required to file an information under s. 985.557(2)(a) or~~
582 ~~(b), the court must impose adult sanctions.~~

583 ~~4. Any sentence imposing adult sanctions is presumed~~
584 ~~appropriate, and the court is not required to set forth specific~~
585 ~~findings or enumerate the criteria in this subsection as any~~
586 ~~basis for its decision to impose adult sanctions.~~

587 ~~2.5.~~ When a child has been transferred for criminal
588 prosecution as an adult and has been found to have committed a
589 violation of state law, the disposition of the case may include
590 the enforcement of any restitution ordered in any juvenile



206646

591 proceeding.

592 (b) *Juvenile sanctions.* ~~For juveniles transferred to adult~~
593 ~~court but who do not qualify for such transfer under s.~~
594 ~~985.556(3) or s. 985.557(2)(a) or (b),~~ The court may impose
595 juvenile sanctions under this paragraph for juveniles
596 transferred to adult court. If juvenile sentences are imposed,
597 the court shall, under this paragraph, adjudge the child to have
598 committed a delinquent act. Adjudication of delinquency shall
599 not be deemed a conviction, nor shall it operate to impose any
600 of the civil disabilities ordinarily resulting from a
601 conviction. The court shall impose an adult sanction or a
602 juvenile sanction and may not sentence the child to a
603 combination of adult and juvenile punishments. An adult sanction
604 or a juvenile sanction may include enforcement of an order of
605 restitution or probation previously ordered in any juvenile
606 proceeding. However, if the court imposes a juvenile sanction
607 and the department determines that the sanction is unsuitable
608 for the child, the department shall return custody of the child
609 to the sentencing court for further proceedings, including the
610 imposition of adult sanctions. Upon adjudicating a child
611 delinquent under subsection (1), the court may:

612 1. Place the child in a probation program under the
613 supervision of the department for an indeterminate period of
614 time until the child reaches the age of 19 years or sooner if
615 discharged by order of the court.

616 2. Commit the child to the department for treatment in an
617 appropriate program for children for an indeterminate period of
618 time until the child is 21 or sooner if discharged by the
619 department. The department shall notify the court of its intent



206646

620 to discharge no later than 14 days prior to discharge. Failure
621 of the court to timely respond to the department's notice shall
622 be considered approval for discharge.

623 3. Order disposition under ss. 985.435, 985.437, 985.439,
624 985.441, 985.45, and 985.455 as an alternative to youthful
625 offender or adult sentencing if the court determines not to
626 impose youthful offender or adult sanctions.

627
628 It is the intent of the Legislature that the criteria and
629 guidelines in this subsection are mandatory and that a
630 determination of disposition under this subsection is subject to
631 the right of the child to appellate review under s. 985.534.

632 Section 6. Subsection (54) of section 985.03, Florida
633 Statutes, is amended to read:

634 985.03 Definitions.—As used in this chapter, the term:

635 (54) "Waiver hearing" means a hearing provided for under s.
636 985.556(3) ~~s. 985.556(4)~~.

637 Section 7. Subsection (1) of section 985.15, Florida
638 Statutes, is amended to read:

639 985.15 Filing decisions.—

640 (1) The state attorney may in all cases take action
641 independent of the action or lack of action of the juvenile
642 probation officer and shall determine the action that is in the
643 best interest of the public and the child. ~~If the child meets~~
644 ~~the criteria requiring prosecution as an adult under s. 985.556,~~
645 ~~the state attorney shall request the court to transfer and~~
646 ~~certify the child for prosecution as an adult or shall provide~~
647 ~~written reasons to the court for not making such a request. In~~
648 ~~all other cases,~~ The state attorney may:



206646

- 649 (a) File a petition for dependency;
- 650 (b) File a petition under chapter 984;
- 651 (c) File a petition for delinquency;
- 652 (d) File a petition for delinquency with a motion to
- 653 transfer and certify the child for prosecution as an adult;
- 654 (e) File an information under s. 985.557;
- 655 (f) Refer the case to a grand jury;
- 656 (g) Refer the child to a diversionary, pretrial
- 657 intervention, arbitration, or mediation program, or to some
- 658 other treatment or care program if such program commitment is
- 659 voluntarily accepted by the child or the child's parents or
- 660 legal guardian; or
- 661 (h) Decline to file.

662 Section 8. For the purpose of incorporating the amendment
663 made by this act to section 985.565, Florida Statutes, in a
664 reference thereto, subsection (3) of section 985.514, Florida
665 Statutes, is reenacted to read:

666 985.514 Responsibility for cost of care; fees.—

667 (3) When the court under s. 985.565 orders any child
668 prosecuted as an adult to be supervised by or committed to the
669 department for treatment in any of the department's programs for
670 children, the court shall order the child's parents to pay fees
671 as provided in s. 985.039.

672 Section 9. This act shall take effect October 1, 2017.

673 ===== T I T L E A M E N D M E N T =====

674 And the title is amended as follows:

675 Delete everything before the enacting clause
676 and insert:
677



206646

678 A bill to be entitled
679 An act relating to juvenile justice; amending s.
680 944.292, F.S.; creating an exception to the suspension
681 of civil rights upon the conviction of a felony for
682 children convicted as adults; amending s. 985.556,
683 F.S.; deleting provisions requiring that a state
684 attorney request the court to transfer and certify a
685 child for prosecution as an adult under certain
686 circumstances; revising the factors that a court must
687 consider when determining whether a child should be
688 transferred to adult court; amending s. 985.557, F.S.;
689 revising the list of crimes for which children of
690 specified ages who are charged with committing,
691 attempting to commit, or conspiring to commit may have
692 an information filed against them by a state attorney;
693 requiring a state attorney to document in writing the
694 reasons for prosecuting or not prosecuting a child as
695 an adult; requiring the state attorney to file the
696 document with the court and include specified
697 information for his or her written decision; deleting
698 provisions requiring that a child be prosecuted as an
699 adult if the child committed or attempted to commit
700 specified crimes; deleting provisions relating to
701 sentencing of a child who commits or attempts to
702 commit such crimes; authorizing a child who is
703 transferred to adult court to request, in writing, a
704 hearing before the court to determine whether the
705 child remains in adult court; requiring the court to
706 make specified considerations in determining whether



206646

707 the public safety would be served by retaining
708 jurisdiction; authorizing the court to transfer a
709 child back to a juvenile court; prohibiting the
710 transfer of an eligible child to adult court if the
711 child has previously been found incompetent but has
712 not had competency restored until child's competency
713 is restored; requiring the Department of Juvenile
714 Justice, beginning on a certain date, to collect
715 specified information relating to children who qualify
716 for prosecution as adults and for children who are
717 transferred for criminal prosecution as adults;
718 requiring the department to work with the Office of
719 Program Policy Analysis and Government Accountability
720 to generate a report analyzing the data of juveniles
721 transferred for prosecution as adults during a certain
722 period; requiring the department to provide the report
723 to the Governor and the Legislature by a certain date;
724 requiring the department to work with the Office of
725 Program Policy Analysis and Government Accountability
726 to generate an annual report to include certain
727 information and provide it to the Governor and the
728 Legislature by a specified date; providing a child 14
729 years of age but who has not yet reached the age of 18
730 and is convicted and sentenced to the Department of
731 Corrections must be kept completely separated from
732 adult offenders in the facility; amending s. 985.56,
733 F.S.; limiting the age to children 14 years of age or
734 older, rather than children of any age, who are
735 subject to the jurisdiction of a court if charged with



206646

736 a violation of law punishable by death or life
737 imprisonment; prohibiting the transfer of a child to
738 adult court for prosecution if the child has a pending
739 competency hearing in juvenile court or has previously
740 been found incompetent and has not had his or her
741 competence restored by a court until the child's
742 competency is restored; providing the tolling of time
743 limits for specified purposes; making technical
744 changes; amending s. 985.565, F.S.; revising the
745 criteria to be used in determining whether to impose
746 juvenile or adult sanctions; deleting provisions
747 requiring the sentencing of children who commit
748 offenses punishable by death or life imprisonment or
749 who are found to have committed lesser included
750 offenses; conforming provisions to changes made by the
751 act; amending s. 985.03, F.S.; conforming a cross-
752 reference; amending s. 985.15, F.S.; conforming
753 provisions to changes made by the act; reenacting s.
754 985.514(3), F.S., relating to responsibility for cost
755 of care and fees, to incorporate the amendment made to
756 s. 985.565, F.S., in a reference thereto; providing an
757 effective date.