

By the Committee on Criminal Justice; and Senators Powell and Rouson

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1                                   A bill to be entitled  
2       An act relating to juvenile justice; amending s.  
3       985.556, F.S.; deleting provisions requiring that a  
4       state attorney request the court to transfer and  
5       certify a child for prosecution as an adult under  
6       certain circumstances; revising the factors that a  
7       court must consider when determining whether a child  
8       should be transferred to adult court; amending s.  
9       985.557, F.S.; eliminating discretionary direct filing  
10      for children of specified ages; revising the list of  
11      crimes for which children of specified ages who are  
12      charged with committing, attempting to commit, or  
13      conspiring to commit may have an information filed  
14      against them by a state attorney; requiring specified  
15      information to be included in certain orders;  
16      requiring chief judges of the judicial circuits to  
17      periodically collect and report certain data to the  
18      Department of Juvenile Justice; deleting provisions  
19      requiring that a child be prosecuted as an adult if  
20      the child committed or attempted to commit specified  
21      crimes; deleting provisions relating to sentencing a  
22      child who commits or attempts to commit specified  
23      crimes; requiring children of certain ages who are  
24      convicted and sentenced to the Department of  
25      Corrections to be kept completely separated from adult  
26      offenders in the facility; authorizing a child who is  
27      transferred to adult court to request, in writing, a  
28      hearing before the court to determine whether he or  
29      she shall remain in adult court; requiring the court

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30 to consider specified facts in determining whether the  
31 public safety would be served by retaining  
32 jurisdiction; authorizing the court to transfer a  
33 child back to a juvenile court; prohibiting the  
34 transfer of a child to adult court until his or her  
35 competency is restored in certain circumstances;  
36 requiring the department, beginning on a specified  
37 date, to collect specified information relating to  
38 children who qualify for prosecution as adults and  
39 children who are transferred for criminal prosecution  
40 as adults; requiring the department to work with the  
41 Office of Program Policy Analysis and Government  
42 Accountability to generate a report analyzing the data  
43 of juveniles transferred for prosecution as adults  
44 during a certain period and provide such report to the  
45 Governor and Legislature by a specified date;  
46 requiring the department to work with the Office of  
47 Program Policy Analysis and Government Accountability  
48 to generate an annual report analyzing certain data  
49 and provide such report to the Governor and  
50 Legislature by a specified date; amending s. 985.56,  
51 F.S.; providing a minimum age limit for children who  
52 are subject to the jurisdiction of a court if they are  
53 charged with a violation punishable by death or life  
54 imprisonment; prohibiting the transfer of a child to  
55 adult court until his or her competency is restored in  
56 certain circumstances; providing for the tolling of  
57 time limits for specified purposes; making technical  
58 changes; amending s. 985.565, F.S.; revising the

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59 criteria to be used in determining whether to impose  
60 juvenile or adult sanctions; deleting provisions  
61 requiring the sentencing of children who commit  
62 offenses punishable by death or life imprisonment or  
63 other specified offenses; conforming provisions to  
64 changes made by the act; amending s. 985.03, F.S.;  
65 conforming a cross-reference; amending s. 985.15,  
66 F.S.; conforming provisions to changes made by the  
67 act; amending s. 985.265, F.S.; authorizing, rather  
68 than requiring, a court to order a child to be housed  
69 in an adult detention facility in certain  
70 circumstances; reenacting s. 985.26(2)(c), F.S.,  
71 relating to the definition of the term "disposition,"  
72 to incorporate the amendments made to ss. 985.557 and  
73 985.56, F.S., in references thereto; reenacting s.  
74 985.514(3), F.S., relating to responsibility for cost  
75 of care and fees, to incorporate the amendment made to  
76 s. 985.565, F.S., in a reference thereto; providing an  
77 effective date.

78  
79 Be It Enacted by the Legislature of the State of Florida:

80  
81 Section 1. Subsections (2) through (5) of section 985.556,  
82 Florida Statutes, are amended, and subsection (1) of that  
83 section is republished, to read:

84 985.556 Waiver of juvenile court jurisdiction; hearing.—

85 (1) VOLUNTARY WAIVER.—The court shall transfer and certify  
86 a child's criminal case for trial as an adult if the child is  
87 alleged to have committed a violation of law and, prior to the

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88 commencement of an adjudicatory hearing, the child, joined by a  
89 parent or, in the absence of a parent, by the guardian or  
90 guardian ad litem, demands in writing to be tried as an adult.  
91 Once a child has been transferred for criminal prosecution  
92 pursuant to a voluntary waiver hearing and has been found to  
93 have committed the presenting offense or a lesser included  
94 offense, the child shall be handled thereafter in every respect  
95 as an adult for any subsequent violation of state law, unless  
96 the court imposes juvenile sanctions under s. 985.565(4)(b).

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

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

103 ~~(a) If the child was 14 years of age or older, and if the~~  
104 ~~child has been previously adjudicated delinquent for an act~~  
105 ~~classified as a felony, which adjudication was for the~~  
106 ~~commission of, attempt to commit, or conspiracy to commit~~  
107 ~~murder, sexual battery, armed or strong armed robbery,~~  
108 ~~earjacking, home invasion robbery, aggravated battery,~~  
109 ~~aggravated assault, or burglary with an assault or battery, and~~  
110 ~~the child is currently charged with a second or subsequent~~  
111 ~~violent crime against a person; or~~

112 ~~(b) If the child was 14 years of age or older at the time~~  
113 ~~of commission of a fourth or subsequent alleged felony offense~~  
114 ~~and the child was previously adjudicated delinquent or had~~  
115 ~~adjudication withheld for or was found to have committed, or to~~  
116 ~~have attempted or conspired to commit, three offenses that are~~

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117 ~~felony offenses if committed by an adult, and one or more of~~  
118 ~~such felony offenses involved the use or possession of a firearm~~  
119 ~~or violence against a person;~~

120  
121 ~~the state attorney shall request the court to transfer and~~  
122 ~~certify the child for prosecution as an adult or shall provide~~  
123 ~~written reasons to the court for not making such request, or~~  
124 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~  
125 ~~the court shall either enter an order transferring the case and~~  
126 ~~certifying the case for trial as if the child were an adult or~~  
127 ~~provide written reasons for not issuing such an order.~~

128 (3) ~~(4)~~ WAIVER HEARING BEFORE A JUDGE.-

129 (a) Within 7 days, excluding Saturdays, Sundays, and legal  
130 holidays, after the date a petition alleging that a child has  
131 committed a delinquent act or violation of law has been filed,  
132 or later with the approval of the court, but before an  
133 adjudicatory hearing and after considering the recommendation of  
134 the juvenile probation officer, the state attorney may file a  
135 motion requesting the court to transfer the child for criminal  
136 prosecution.

137 (b) After the filing of the motion of the state attorney,  
138 summonses must be issued and served in conformity with s.  
139 985.319. A copy of the motion and a copy of the delinquency  
140 petition, if not already served, must be attached to each  
141 summons.

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

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146 1. The seriousness of the alleged offense to the community  
147 and whether the protection of the community is best served by  
148 transferring the child for adult sanctions.

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

151 3. Whether the alleged offense was against persons or  
152 against property, greater weight being given to offenses against  
153 persons, especially if personal injury resulted.

154 4. The probable cause as found in the report, affidavit, or  
155 complaint.

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

159 5.6. The sophistication, and maturity, and mental  
160 development of the child.

161 6.7. The record and previous history of the child,  
162 including:

163 a. Previous contacts with the department, the Department of  
164 Corrections, the former Department of Health and Rehabilitative  
165 Services, the Department of Children and Families, other law  
166 enforcement agencies, and courts. †

167 b. Prior periods of probation. †

168 c. Prior adjudications that the child committed a  
169 delinquent act or violation of law, greater weight being given  
170 if the child has previously been found by a court to have  
171 committed a delinquent act or violation of law involving an  
172 offense classified as a felony or has twice previously been  
173 found to have committed a delinquent act or violation of law  
174 involving an offense classified as a misdemeanor. † ~~and~~

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175 d. Prior commitments to institutions.

176 ~~7.8.~~ The prospects for adequate protection of the public  
177 and the likelihood of reasonable rehabilitation of the child, if  
178 the child is found to have committed the alleged offense, by the  
179 use of procedures, services, and facilities currently available  
180 to the court.

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

188 (e) Any decision to transfer a child for criminal  
189 prosecution must be in writing and include consideration of, and  
190 findings of fact with respect to, all criteria in paragraph (c).  
191 The court shall render an order including a specific finding of  
192 fact and the reasons for a decision to impose adult sanctions.  
193 The order shall be reviewable on appeal under s. 985.534 and the  
194 Florida Rules of Appellate Procedure.

195 ~~(4)~~~~(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

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

202 (b) When a child is transferred for criminal prosecution as  
203 an adult, the court shall immediately transfer and certify to

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204 the adult circuit court all felony cases pertaining to the  
205 child, for prosecution of the child as an adult, which have not  
206 yet resulted in a plea of guilty or nolo contendere or in which  
207 a finding of guilt has not been made. If the child is acquitted  
208 of all charged offenses or lesser included offenses contained in  
209 the original case transferred to adult court, all felony cases  
210 that were transferred to adult court under this paragraph shall  
211 be subject to the same penalties such cases were subject to  
212 before being transferred to adult court.

213 Section 2. Section 985.557, Florida Statutes, is amended to  
214 read:

215 985.557 Prosecuting children as adults ~~Direct filing of an~~  
216 ~~information;~~ discretionary ~~and mandatory~~ criteria.—

217 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
218 ~~FILE.~~—

219 (a) With respect to any child who was 16 ~~14~~ or 17 ~~15~~ years  
220 of age at the time the alleged offense was committed, the state  
221 attorney may file an information when in the state attorney's  
222 judgment and discretion the public interest requires that adult  
223 sanctions be considered or imposed and when the offense charged  
224 is for the commission of, attempt to commit, or conspiracy to  
225 commit:

- 226 1. Arson;
- 227 2. Sexual battery;
- 228 3. Robbery;
- 229 4. Kidnapping;
- 230 5. Aggravated child abuse;
- 231 6. Aggravated assault;
- 232 7. Aggravated stalking;



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233 8. Murder;

234 9. Manslaughter;

235 10. Unlawful throwing, placing, or discharging of a  
236 destructive device or bomb;

237 11. Armed burglary in violation of s. 810.02(2)(b) or  
238 specified burglary of a dwelling or structure in violation of s.  
239 810.02(2)(c), or burglary with an assault or battery in  
240 violation of s. 810.02(2)(a);

241 12. Aggravated battery;

242 13. Any lewd or lascivious offense committed upon or in the  
243 presence of a person less than 16 years of age;

244 14. Carrying, displaying, using, threatening, or attempting  
245 to use a weapon or firearm during the commission of a felony;

246 ~~15. Grand theft in violation of s. 812.014(2)(a);~~

247 ~~15.16.~~ Possessing or discharging any weapon or firearm on  
248 school property in violation of s. 790.115;

249 ~~16.17.~~ Home invasion robbery;

250 ~~17.18.~~ Carjacking; or

251 ~~18.19.~~ Grand theft of a motor vehicle in violation of s.  
252 812.014(2)(c)6. or grand theft of a motor vehicle valued at  
253 \$20,000 or more in violation of s. 812.014(2)(b) if the child  
254 has a previous adjudication for grand theft of a motor vehicle  
255 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

256 (b)1. Beginning October 1, 2018, the court shall, with the  
257 assistance of the department, prosecutor, and defense counsel,  
258 include the following information in the disposition order or  
259 the judgment and sentence order for all cases eligible for  
260 transfer to adult court under this section, s. 985.556, or s.  
261 985.56:

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- 262       a. Whether the case was adjudicated in juvenile or adult  
263 court.
- 264       b. The length of time the child spent in a detention  
265 facility or jail awaiting disposition.
- 266       c. If the case was adjudicated in juvenile court:
- 267           (I) Whether the child had to waive statutory limits on  
268 secure detention in order to avoid being prosecuted as an adult  
269 and, if available, the amount of time the child who waived  
270 secure detention limits actually spent in secure detention.
- 271           (II) Whether the child waived the right to trial in  
272 exchange for the case remaining in juvenile court.
- 273           (III) If the decision not to transfer to adult court  
274 resulted in a plea agreement, the details of the plea agreement,  
275 including previous plea offers made by the state but not  
276 accepted by the child, and any conditions placed on the plea  
277 offer.
- 278           (IV) Whether any discovery was conducted on the case before  
279 the plea.
- 280           (V) Whether the judge sentenced the child to a disposition  
281 other than what the prosecutor was offering in exchange for the  
282 child not being prosecuted as an adult.
- 283       d. If the case was adjudicated in adult court:
- 284           (I) Whether any discovery was conducted on the case after  
285 the child's transfer to adult court.
- 286           (II) Whether the sentence was the result of a plea  
287 agreement that did not involve the judge.
- 288           (III) Whether the sentence was the result of a plea  
289 agreement that did involve the judge.
- 290           (IV) Whether the sentence was the result of a trial.

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291 2. On or before the 15th of each month, the chief judge in  
292 each judicial circuit shall collect the information specified in  
293 subparagraph 1. for all cases disposed of in the previous month  
294 and submit such information to the department for data  
295 collection.

296 ~~(b) With respect to any child who was 16 or 17 years of age~~  
297 ~~at the time the alleged offense was committed, the state~~  
298 ~~attorney may file an information when in the state attorney's~~  
299 ~~judgment and discretion the public interest requires that adult~~  
300 ~~sanctions be considered or imposed. However, the state attorney~~  
301 ~~may not file an information on a child charged with a~~  
302 ~~misdemeanor, unless the child has had at least two previous~~  
303 ~~adjudications or adjudications withheld for delinquent acts, one~~  
304 ~~of which involved an offense classified as a felony under state~~  
305 ~~law.~~

306 ~~(2) MANDATORY DIRECT FILE.—~~

307 ~~(a) With respect to any child who was 16 or 17 years of age~~  
308 ~~at the time the alleged offense was committed, the state~~  
309 ~~attorney shall file an information if the child has been~~  
310 ~~previously adjudicated delinquent for an act classified as a~~  
311 ~~felony, which adjudication was for the commission of, attempt to~~  
312 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~  
313 ~~strong-armed robbery, carjacking, home invasion robbery,~~  
314 ~~aggravated battery, or aggravated assault, and the child is~~  
315 ~~currently charged with a second or subsequent violent crime~~  
316 ~~against a person.~~

317 ~~(b) With respect to any child 16 or 17 years of age at the~~  
318 ~~time an offense classified as a forcible felony, as defined in~~  
319 ~~s. 776.08, was committed, the state attorney shall file an~~

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320 ~~information if the child has previously been adjudicated~~  
321 ~~delinquent or had adjudication withheld for three acts~~  
322 ~~classified as felonies each of which occurred at least 45 days~~  
323 ~~apart from each other. This paragraph does not apply when the~~  
324 ~~state attorney has good cause to believe that exceptional~~  
325 ~~circumstances exist which preclude the just prosecution of the~~  
326 ~~juvenile in adult court.~~

327 ~~(c) The state attorney must file an information if a child,~~  
328 ~~regardless of the child's age at the time the alleged offense~~  
329 ~~was committed, is alleged to have committed an act that would be~~  
330 ~~a violation of law if the child were an adult, that involves~~  
331 ~~stealing a motor vehicle, including, but not limited to, a~~  
332 ~~violation of s. 812.133, relating to carjacking, or s.~~  
333 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~  
334 ~~while the child was in possession of the stolen motor vehicle~~  
335 ~~the child caused serious bodily injury to or the death of a~~  
336 ~~person who was not involved in the underlying offense. For~~  
337 ~~purposes of this section, the driver and all willing passengers~~  
338 ~~in the stolen motor vehicle at the time such serious bodily~~  
339 ~~injury or death is inflicted shall also be subject to mandatory~~  
340 ~~transfer to adult court. "Stolen motor vehicle," for the~~  
341 ~~purposes of this section, means a motor vehicle that has been~~  
342 ~~the subject of any criminal wrongful taking. For purposes of~~  
343 ~~this section, "willing passengers" means all willing passengers~~  
344 ~~who have participated in the underlying offense.~~

345 ~~(d)1. With respect to any child who was 16 or 17 years of~~  
346 ~~age at the time the alleged offense was committed, the state~~  
347 ~~attorney shall file an information if the child has been charged~~  
348 ~~with committing or attempting to commit an offense listed in s.~~

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349 ~~775.087(2)(a)1.a. p., and, during the commission of or attempt~~  
350 ~~to commit the offense, the child:~~

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

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

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

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

359 ~~a. Charged under sub-subparagraph 1.a. and who has been~~  
360 ~~previously adjudicated or had adjudication withheld for a~~  
361 ~~forcible felony offense or any offense involving a firearm, or~~  
362 ~~who has been previously placed in a residential commitment~~  
363 ~~program, shall be subject to sentencing under s. 775.087(2)(a),~~  
364 ~~notwithstanding s. 985.565.~~

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

368 ~~3. Upon transfer, any child who is charged under this~~  
369 ~~paragraph, but who does not meet the requirements specified in~~  
370 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~  
371 ~~if the court imposes a juvenile sanction, the court must commit~~  
372 ~~the child to a high risk or maximum risk juvenile facility.~~

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

376 ~~(c)5.~~ The Department of Corrections shall make every  
377 reasonable effort to ensure that any child who is 16 years of

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378 age or older but has not yet reached the age of 18 and ~~16 or 17~~  
379 ~~years of age~~ who is convicted and sentenced under this section  
380 is paragraph be completely separated such that there is no  
381 physical contact with adult offenders in the facility, to the  
382 extent that it is consistent with chapter 958.

383 (2) ~~(3)~~ EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
384 ~~FILE.~~—

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

391 (b) When a child is transferred for criminal prosecution as  
392 an adult, the court shall immediately transfer and certify to  
393 the adult circuit court all felony cases pertaining to the  
394 child, for prosecution of the child as an adult, which have not  
395 yet resulted in a plea of guilty or nolo contendere or in which  
396 a finding of guilt has not been made. If a child is acquitted of  
397 all charged offenses or lesser included offenses contained in  
398 the original case transferred to adult court, all felony cases  
399 that were transferred to adult court as a result of this  
400 paragraph shall be subject to the same penalties to which such  
401 cases would have been subject before being transferred to adult  
402 court.

403 (c) When a child has been transferred for criminal  
404 prosecution as an adult and has been found to have committed a  
405 violation of state law, the disposition of the case may be made  
406 under s. 985.565 and may include the enforcement of any

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407 restitution ordered in any juvenile proceeding.

408 (3) FITNESS HEARING BEFORE A JUDGE.—A child who is  
409 transferred to adult court under this section may request, in  
410 writing, a hearing before the court to determine whether he or  
411 she shall remain in adult court. The adult court, in determining  
412 whether public safety would be best served by retaining  
413 jurisdiction, shall consider the seriousness of the offense; the  
414 extent of the child’s alleged participation or role in the  
415 offense; the sophistication, maturity, and mental development of  
416 the child; any prior adjudications or adjudications withheld of  
417 the child; and any other consideration set forth in s.  
418 985.556(3)(c). The adult court may, based on these  
419 considerations, transfer the case back to juvenile court.

420 (4) TRANSFER PROHIBITION.—Notwithstanding any other law, a  
421 child who is eligible for prosecution as an adult and who has a  
422 pending competency hearing in juvenile court or who has  
423 previously been found to be incompetent but has not been  
424 restored to competency by a court may not be transferred to  
425 adult court for criminal prosecution until the child’s  
426 competency has been restored.

427 (5) DATA COLLECTION RELATING TO PROSECUTING CHILDREN AS  
428 ADULTS.—

429 (a) Beginning January 1, 2019, the department shall collect  
430 data relating to children who qualify to be prosecuted as adults  
431 under this section and s. 985.556, regardless of the outcome of  
432 the case, including, but not limited to:

433 1. Age.

434 2. Race and ethnicity.

435 3. Gender.

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- 436       4. Circuit and county of residence.
- 437       5. Circuit and county of offense.
- 438       6. Prior adjudications or adjudications withheld.
- 439       7. Prior periods of probation, including any violations of  
440 probation.
- 441       8. Previous contact with law enforcement agencies or the  
442 court which resulted in a civil citation, arrest, or other  
443 charge being filed with the state.
- 444       9. Initial charges.
- 445       10. Charges at disposition.
- 446       11. Whether child codefendants were involved who were  
447 transferred to adult court.
- 448       12. Whether the child was represented by counsel or waived  
449 counsel.
- 450       13. The child's risk assessment instrument score.
- 451       14. The child's medical, mental health, substance abuse, or  
452 trauma history.
- 453       15. The child's history of mental impairment or disability-  
454 related accommodations.
- 455       16. The child's history of abuse or neglect.
- 456       17. The child's history of foster care placements,  
457 including the number of prior placements.
- 458       18. Whether the child has below-average intellectual  
459 functioning.
- 460       19. Whether the child has received mental health services  
461 or treatment.
- 462       20. Whether the child has been the subject of a child-in-  
463 need-of-services or families-in-need-of-services petition or a  
464 dependency petition.



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465 21. Whether the child was transferred for criminal  
466 prosecution as an adult.

467 22. The case resolution in juvenile court.

468 23. The case resolution in adult court.

469 24. Information included in the disposition order or the  
470 judgment and sentence order under subparagraph (1)(b)1.

471 (b) Beginning January 1, 2019, the department shall also  
472 collect data relating to children transferred for criminal  
473 prosecution as adults, including, but not limited to:

474 1. Disposition data, including, but not limited to, adult  
475 sanctions, juvenile sanctions, or diversions received and, if  
476 sentenced to prison, the length of the prison sentence or the  
477 length of the enhanced sentence.

478 2. Incompetence to proceed in juvenile court.

479 (c) For every juvenile case transferred between July 1,  
480 2017, and June 30, 2018, the department shall work with the  
481 Office of Program Policy Analysis and Government Accountability  
482 to generate a report analyzing the aggregated data under  
483 paragraphs (a) and (b). The department must provide the report  
484 to the Governor, the President of the Senate, and the Speaker of  
485 the House of Representatives by January 31, 2019.

486 (d) The department must work with the Office of Program  
487 Policy Analysis and Government Accountability to generate a  
488 report analyzing the aggregated data under paragraphs (a) and  
489 (b) on an annual basis. The department shall provide the report  
490 annually to the Governor, the President of the Senate, and the  
491 Speaker of the House of Representatives no later than January 31  
492 of the following calendar year.

493 (6)-(4) An information filed pursuant to this section may

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494 include all charges that are based on the same act, criminal  
495 episode, or transaction as the primary offenses.

496 Section 3. Section 985.56, Florida Statutes, is amended to  
497 read:

498 985.56 Indictment of a juvenile.—

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

507 (a) On the indicting offense punishable by death or by life  
508 imprisonment; and

509 (b) On all other felonies or misdemeanors charged in the  
510 indictment which are based on the same act or transaction as the  
511 indicting offense punishable by death or by life imprisonment or  
512 on one or more acts or transactions connected with the offense  
513 punishable by death or by life imprisonment.

514 (2) An adjudicatory hearing may not be held until 21 days  
515 after the child is taken into custody and charged with having  
516 committed an indictable offense punishable by death or by life  
517 imprisonment, unless the state attorney advises the court in  
518 writing that he or she does not intend to present the case to  
519 the grand jury, or has presented the case to the grand jury and  
520 the grand jury has not returned an indictment. If the court  
521 receives such a notice from the state attorney, or if the grand  
522 jury fails to act within the 21-day period, the court may

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523 proceed as otherwise authorized under this part.

524 (3) Notwithstanding any other law, a child who is eligible  
525 for indictment and who has a pending competency hearing in  
526 juvenile court or who has been previously found to be  
527 incompetent and has not been restored to competency by a court  
528 may not be transferred to adult court for criminal prosecution  
529 until the child's competency is restored. A pending competency  
530 hearing or a finding of incompetency tolls the time limits in  
531 subsection (2). If the child is found to have committed the  
532 offense punishable by death or by life imprisonment, the child  
533 shall be sentenced as an adult. If the juvenile is not found to  
534 have committed the indictable offense but is found to have  
535 committed a lesser included offense or any other offense for  
536 which he or she was indicted as a part of the criminal episode,  
537 the court may sentence under s. 985.565.

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

544 (b) If ~~When~~ a child has been indicted pursuant to this  
545 section, the court shall immediately transfer and certify to the  
546 adult circuit court all felony cases pertaining to the child,  
547 for prosecution of the child as an adult, which have not yet  
548 resulted in a plea of guilty or nolo contendere or in which a  
549 finding of guilt has not been made. If the child is acquitted of  
550 all charged offenses or lesser included offenses contained in  
551 the indictment case, all felony cases that were transferred to

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552 adult court pursuant to this paragraph shall be subject to the  
553 same penalties such cases were subject to before being  
554 transferred to adult court.

555 Section 4. Subsection (1) and paragraphs (a) and (b) of  
556 subsection (4) of section 985.565, Florida Statutes, are amended  
557 to read:

558 985.565 Sentencing powers; procedures; alternatives for  
559 juveniles prosecuted as adults.—

560 (1) POWERS OF DISPOSITION.—

561 (a) A child who is found to have committed a violation of  
562 law may, as an alternative to adult dispositions, be committed  
563 to the department for treatment in an appropriate program for  
564 children outside the adult correctional system or be placed on  
565 juvenile probation.

566 (b) In determining whether to impose juvenile sanctions  
567 instead of adult sanctions, the court shall consider the  
568 following criteria:

569 1. The seriousness of the offense to the community and  
570 whether the protection of the community would be best served ~~be~~  
571 ~~protected~~ by juvenile or adult sanctions.

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

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

575 4.2. Whether the offense was committed in an aggressive,  
576 violent, premeditated, or willful manner.

577 5.3. Whether the offense was against persons or against  
578 property, with greater weight being given to offenses against  
579 persons, especially if personal injury resulted.

580 6.4. The sophistication, ~~and~~ maturity, and mental

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581 development of the child, including: ~~offender.~~

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

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

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

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

591 ~~7.5.~~ The record and previous history of the child offender,  
592 including:

593 a. Previous contacts with the Department of Corrections,  
594 the Department of Juvenile Justice, the former Department of  
595 Health and Rehabilitative Services, or the Department of  
596 Children and Families, and the adequacy and appropriateness of  
597 the services provided by the Department of Juvenile Justice to  
598 address the child's needs ~~law enforcement agencies, and the~~  
599 ~~courts.~~

600 b. Prior periods of probation.

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

603 d. Prior commitments to the Department of Juvenile Justice,  
604 the former Department of Health and Rehabilitative Services, the  
605 Department of Children and Families, or other facilities or  
606 institutions and the adequacy and appropriateness of the  
607 services provided by such entity to address the child's needs.

608 e. Previous contacts with law enforcement agencies and the  
609 courts.

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- 610 f. History of abuse, abandonment, or neglect.
- 611 g. History of foster care placements.
- 612 h. Identification of the child as having a disability.
- 613 i. History of mental health services or treatment.
- 614 ~~8.6.~~ The prospects for adequate protection of the public  
615 and the likelihood of deterrence and reasonable rehabilitation  
616 of the offender if assigned to services and facilities of the  
617 Department of Juvenile Justice.
- 618 ~~9.7.~~ Whether the Department of Juvenile Justice has  
619 appropriate programs, facilities, and services immediately  
620 available.
- 621 ~~10.8.~~ Whether adult sanctions would provide more  
622 appropriate punishment and deterrence to further violations of  
623 law than the imposition of juvenile sanctions.
- 624 11. Whether the Department of Corrections has appropriate  
625 programs, facilities, and services immediately available.
- 626 (4) SENTENCING ALTERNATIVES.—
- 627 (a) *Adult sanctions.*—
- 628 ~~1. Cases prosecuted on indictment. If the child is found to~~  
629 ~~have committed the offense punishable by death or life~~  
630 ~~imprisonment, the child shall be sentenced as an adult. If the~~  
631 ~~juvenile is not found to have committed the indictable offense~~  
632 ~~but is found to have committed a lesser included offense or any~~  
633 ~~other offense for which he or she was indicted as a part of the~~  
634 ~~criminal episode, the court may sentence as follows:~~
- 635 ~~a. As an adult;~~
- 636 ~~b. Under chapter 958; or~~
- 637 ~~c. As a juvenile under this section.~~
- 638 1.2. Other cases.—If a child who has been transferred for

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639 criminal prosecution pursuant to indictment, information, or  
640 waiver of juvenile court jurisdiction is found to have committed  
641 a violation of state law or a lesser included offense for which  
642 he or she was charged as a part of the criminal episode, the  
643 court may sentence as follows:

- 644 a. As an adult;
- 645 b. Under chapter 958; or
- 646 c. As a juvenile under this section.

647 ~~3. Notwithstanding any other provision to the contrary, if~~  
648 ~~the state attorney is required to file a motion to transfer and~~  
649 ~~certify the juvenile for prosecution as an adult under s.~~  
650 ~~985.556(3) and that motion is granted, or if the state attorney~~  
651 ~~is required to file an information under s. 985.557(2)(a) or~~  
652 ~~(b), the court must impose adult sanctions.~~

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

657 ~~2.5. If~~ When a child who has been transferred for criminal  
658 prosecution as an adult is ~~and has been~~ found to have committed  
659 a violation of state law, the disposition of the case may  
660 include the enforcement of any restitution ordered in any  
661 juvenile proceeding.

662 (b) *Juvenile sanctions.* ~~For juveniles transferred to adult~~  
663 ~~court but who do not qualify for such transfer under s.~~  
664 ~~985.556(3) or s. 985.557(2)(a) or (b),~~ The court may impose  
665 juvenile sanctions under this paragraph for juveniles  
666 transferred to adult court. If juvenile sentences are imposed,  
667 the court shall, under this paragraph, adjudge the child to have

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668 committed a delinquent act. Adjudication of delinquency shall  
669 not be deemed a conviction, nor shall it operate to impose any  
670 of the civil disabilities ordinarily resulting from a  
671 conviction. The court shall impose an adult sanction or a  
672 juvenile sanction and may not sentence the child to a  
673 combination of adult and juvenile punishments. An adult sanction  
674 or a juvenile sanction may include enforcement of an order of  
675 restitution or probation previously ordered in any juvenile  
676 proceeding. However, if the court imposes a juvenile sanction  
677 and the department determines that the sanction is unsuitable  
678 for the child, the department shall return custody of the child  
679 to the sentencing court for further proceedings, including the  
680 imposition of adult sanctions. Upon adjudicating a child  
681 delinquent under subsection (1), the court may:

682 1. Place the child in a probation program under the  
683 supervision of the department for an indeterminate period of  
684 time until the child reaches the age of 19 years or sooner if  
685 discharged by order of the court.

686 2. Commit the child to the department for treatment in an  
687 appropriate program for children for an indeterminate period of  
688 time until the child is 21 or sooner if discharged by the  
689 department. The department shall notify the court of its intent  
690 to discharge no later than 14 days prior to discharge. Failure  
691 of the court to timely respond to the department's notice shall  
692 be considered approval for discharge.

693 3. Order disposition under ss. 985.435, 985.437, 985.439,  
694 985.441, 985.45, and 985.455 as an alternative to youthful  
695 offender or adult sentencing if the court determines not to  
696 impose youthful offender or adult sanctions.



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697

698 It is the intent of the Legislature that the criteria and  
699 guidelines in this subsection are mandatory and that a  
700 determination of disposition under this subsection is subject to  
701 the right of the child to appellate review under s. 985.534.

702 Section 5. Subsection (54) of section 985.03, Florida  
703 Statutes, is amended to read:

704 985.03 Definitions.—As used in this chapter, the term:

705 (54) "Waiver hearing" means a hearing ~~provided for~~ under s.  
706 985.556(3) ~~s. 985.556(4)~~.

707 Section 6. Subsection (1) of section 985.15, Florida  
708 Statutes, is amended to read:

709 985.15 Filing decisions.—

710 (1) The state attorney may in all cases take action  
711 independent of the action or lack of action of the juvenile  
712 probation officer and shall determine the action that is in the  
713 best interest of the public and the child. ~~If the child meets  
714 the criteria requiring prosecution as an adult under s. 985.556,  
715 the state attorney shall request the court to transfer and  
716 certify the child for prosecution as an adult or shall provide  
717 written reasons to the court for not making such a request. In  
718 all other cases,~~ The state attorney may:

719 (a) File a petition for dependency;

720 (b) File a petition under chapter 984;

721 (c) File a petition for delinquency;

722 (d) File a petition for delinquency with a motion to  
723 transfer and certify the child for prosecution as an adult;

724 (e) File an information under s. 985.557;

725 (f) Refer the case to a grand jury;

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726 (g) Refer the child to a diversionary, pretrial  
727 intervention, arbitration, or mediation program, or to some  
728 other treatment or care program if such program commitment is  
729 voluntarily accepted by the child or the child's parents or  
730 legal guardian; or

731 (h) Decline to file.

732 Section 7. Subsection (5) of section 985.265, Florida  
733 Statutes, is amended to read:

734 985.265 Detention transfer and release; education; adult  
735 jails.-

736 (5) The court may ~~shall~~ order the delivery of a child to a  
737 jail or other facility intended or used for the detention of  
738 adults:

739 (a) When the child has been transferred or indicted for  
740 criminal prosecution as an adult under part X, except that the  
741 court may not order or allow a child alleged to have committed a  
742 misdemeanor who is being transferred for criminal prosecution  
743 pursuant to either s. 985.556 or s. 985.557 to be detained or  
744 held in a jail or other facility intended or used for the  
745 detention of adults; however, such child may be held temporarily  
746 in a detention facility; or

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

749

750 The child shall be housed separately from adult inmates to  
751 prohibit a child from having regular contact with incarcerated  
752 adults, including trusties. "Regular contact" means sight and  
753 sound contact. Separation of children from adults shall permit  
754 no more than haphazard or accidental contact. The receiving jail

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755 or other facility shall contain a separate section for children  
756 and shall have an adequate staff to supervise and monitor the  
757 child's activities at all times. Supervision and monitoring of  
758 children includes physical observation and documented checks by  
759 jail or receiving facility supervisory personnel at intervals  
760 not to exceed 10 minutes. This subsection does not prohibit  
761 placing two or more children in the same cell. Under no  
762 circumstances shall a child be placed in the same cell with an  
763 adult.

764 Section 8. For the purpose of incorporating the amendments  
765 made by this act to sections 985.557 and 985.56, Florida  
766 Statutes, in references thereto, paragraph (c) of subsection (2)  
767 of section 985.26, Florida Statutes, is reenacted to read:

768 985.26 Length of detention.—

769 (2)

770 (c) A prolific juvenile offender under s. 985.255(1)(j)  
771 shall be placed on nonsecure detention care with electronic  
772 monitoring or in secure detention care under a special detention  
773 order until disposition. If secure detention care is ordered by  
774 the court, it must be authorized under this part and may not  
775 exceed:

776 1. Twenty-one days unless an adjudicatory hearing for the  
777 case has been commenced in good faith by the court or the period  
778 is extended by the court pursuant to paragraph (b); or

779 2. Fifteen days after the entry of an order of  
780 adjudication.

781

782 As used in this paragraph, the term "disposition" means a  
783 declination to file under s. 985.15(1)(h), the entry of nolle

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784 prosecute for the charges, the filing of an indictment under s.  
785 985.56 or an information under s. 985.557, a dismissal of the  
786 case, or an order of final disposition by the court.

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

791 985.514 Responsibility for cost of care; fees.—

792 (3) When the court under s. 985.565 orders any child  
793 prosecuted as an adult to be supervised by or committed to the  
794 department for treatment in any of the department's programs for  
795 children, the court shall order the child's parents to pay fees  
796 as provided in s. 985.039.

797 Section 10. This act shall take effect July 1, 2018.