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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2020	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 112 and 113

insert:

Section 4. Subsection (7) of section 985.03, Florida  
Statutes, is amended to read:

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

(7) "Child," ~~or~~ "juvenile," or "youth" means any person 12  
years of age or older but younger than 18 years of age ~~under the~~  
~~age of 18~~ or any person who is alleged to have committed a



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11 violation of law occurring after the person reached 12 years of  
12 age or older and before ~~prior to the time~~ that person reached  
13 ~~the age of 18 years~~ of age.

14 Section 5. Section 985.031, Florida Statutes, is created to  
15 read:

16 985.031 Children incapable of committing crimes.—Children  
17 younger than 12 years of age are incapable of the mental  
18 culpability needed to commit crimes and, therefore, may not be  
19 adjudicated delinquent, arrested, or charged with a crime on the  
20 basis of acts occurring before they reach such age.

21 Section 6. Subsection (1) of section 985.101, Florida  
22 Statutes, is amended, and subsections (5) and (6) are added to  
23 that section, to read:

24 985.101 Taking a child into custody.—

25 (1) A child 15 years of age or older may be taken into  
26 custody under the following circumstances:

27 (a) Pursuant to an order of the circuit court issued under  
28 this chapter, based upon sworn testimony, either before or after  
29 a petition is filed.

30 (b) For a delinquent act or violation of law, pursuant to  
31 Florida law pertaining to a lawful arrest. If such delinquent  
32 act or violation of law would be a felony if committed by an  
33 adult or involves a crime of violence, the arresting authority  
34 shall immediately notify the district school superintendent, or  
35 the superintendent's designee, of the school district with  
36 educational jurisdiction of the child. Such notification must  
37 ~~shall~~ include other education providers, such as the Florida  
38 School for the Deaf and the Blind, university developmental  
39 research schools, and private elementary and secondary schools.



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40 The information obtained by the superintendent of schools  
41 pursuant to this section must be released within 48 hours after  
42 receipt to appropriate school personnel, including the principal  
43 of the child's school, or as otherwise provided by law. The  
44 principal must immediately notify the child's immediate  
45 classroom teachers. Information provided by an arresting  
46 authority under this paragraph may not be placed in the  
47 student's permanent record and must ~~shall~~ be removed from all  
48 school records no later than 9 months after the date of the  
49 arrest.

50 (c) By a law enforcement officer for failing to appear at a  
51 court hearing after being properly noticed.

52 (d) By a law enforcement officer who has probable cause to  
53 believe that the child is in violation of the conditions of the  
54 child's probation, supervised release detention, postcommitment  
55 probation, or conditional release supervision; has absconded  
56 from nonresidential commitment; or has escaped from residential  
57 commitment.

58  
59 This ~~Nothing in this~~ subsection may not ~~shall~~ be construed to  
60 allow the detention of a child who does not meet the detention  
61 criteria in part V of this chapter.

62 (5) A child 12 years of age or older but 14 years of age or  
63 younger may be taken into custody or arrested only under any of  
64 the following circumstances:

65 (a) By a law enforcement officer for failing to appear at a  
66 court hearing after being properly noticed.

67 (b) By a law enforcement officer who has probable cause to  
68 believe that the child has absconded from a nonresidential



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69 commitment or has escaped from a residential commitment.

70 (c) By a law enforcement officer who has probable cause to  
71 believe that detention is necessary to prevent an imminent  
72 threat of serious bodily harm to another individual.

73

74 This subsection may not be construed to allow the detention of a  
75 child who does not meet the detention criteria in part V of this  
76 chapter.

77 (6) A child enrolled in a primary or secondary school may  
78 be taken into custody or arrested at the school they attend only  
79 under any the following circumstances:

80 (a) By a law enforcement officer for failing to appear at a  
81 court hearing after being properly noticed.

82 (b) By a law enforcement officer who has probable cause to  
83 believe that detention is necessary to prevent an imminent  
84 threat of serious bodily harm to another individual.

85

86 This subsection may not be construed to allow the detention of a  
87 child who does not meet the detention criteria in part V of this  
88 chapter.

89 Section 7. Present subsection (4) of section 985.24,  
90 Florida Statutes, is redesignated as subsection (5), and a new  
91 subsection (4) is added to that section, to read:

92 985.24 Use of detention; prohibitions.—

93 (4) A child who is taken into custody pursuant to a  
94 summons, an arrest warrant, or any other circuit court order  
95 that does not explicitly require detention must be treated in  
96 the same manner as a child taken into custody under s.  
97 985.101(1)(b) and may be detained only pursuant to a finding



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98 under subsection (1).

99           Section 8. For the purpose of incorporating the amendment  
100 made by this act to section 985.03, Florida Statutes, in a  
101 reference thereto, subsection (11) of section 316.003, Florida  
102 Statutes, is reenacted to read:

103           316.003 Definitions.—The following words and phrases, when  
104 used in this chapter, shall have the meanings respectively  
105 ascribed to them in this section, except where the context  
106 otherwise requires:

107           (11) CHILD.—A child as defined in s. 39.01, s. 984.03, or  
108 s. 985.03.

109           Section 9. For the purpose of incorporating the amendment  
110 made by this act to section 985.101, Florida Statutes, in a  
111 reference thereto, paragraph (b) of subsection (1) of section  
112 960.001, Florida Statutes, is reenacted to read:

113           960.001 Guidelines for fair treatment of victims and  
114 witnesses in the criminal justice and juvenile justice systems.—

115           (1) The Department of Legal Affairs, the state attorneys,  
116 the Department of Corrections, the Department of Juvenile  
117 Justice, the Florida Commission on Offender Review, the State  
118 Courts Administrator and circuit court administrators, the  
119 Department of Law Enforcement, and every sheriff's department,  
120 police department, or other law enforcement agency as defined in  
121 s. 943.10(4) shall develop and implement guidelines for the use  
122 of their respective agencies, which guidelines are consistent  
123 with the purposes of this act and s. 16(b), Art. I of the State  
124 Constitution and are designed to implement s. 16(b), Art. I of  
125 the State Constitution and to achieve the following objectives:

126           (b) *Information for purposes of notifying victim or*



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127 *appropriate next of kin of victim or other designated contact of*  
128 *victim.*—In the case of a homicide, pursuant to chapter 782; or a  
129 sexual offense, pursuant to chapter 794; or an attempted murder  
130 or sexual offense, pursuant to chapter 777; or stalking,  
131 pursuant to s. 784.048; or domestic violence, pursuant to s.  
132 25.385:

133         1. The arresting law enforcement officer or personnel of an  
134 organization that provides assistance to a victim or to the  
135 appropriate next of kin of the victim or other designated  
136 contact must request that the victim or appropriate next of kin  
137 of the victim or other designated contact complete a victim  
138 notification card. However, the victim or appropriate next of  
139 kin of the victim or other designated contact may choose not to  
140 complete the victim notification card.

141         2. Unless the victim or the appropriate next of kin of the  
142 victim or other designated contact waives the option to complete  
143 the victim notification card, a copy of the victim notification  
144 card must be filed with the incident report or warrant in the  
145 sheriff's office of the jurisdiction in which the incident  
146 report or warrant originated. The notification card shall, at a  
147 minimum, consist of:

148             a. The name, address, and phone number of the victim; or

149             b. The name, address, and phone number of the appropriate  
150 next of kin of the victim; or

151             c. The name, address, and telephone number of a designated  
152 contact other than the victim or appropriate next of kin of the  
153 victim; and

154             d. Any relevant identification or case numbers assigned to  
155 the case.



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156           3. The chief administrator, or a person designated by the  
157 chief administrator, of a county jail, municipal jail, juvenile  
158 detention facility, or residential commitment facility shall  
159 make a reasonable attempt to notify the alleged victim or  
160 appropriate next of kin of the alleged victim or other  
161 designated contact within 4 hours following the release of the  
162 defendant on bail or, in the case of a juvenile offender, upon  
163 the release from residential detention or commitment. If the  
164 chief administrator, or designee, is unable to contact the  
165 alleged victim or appropriate next of kin of the alleged victim  
166 or other designated contact by telephone, the chief  
167 administrator, or designee, must send to the alleged victim or  
168 appropriate next of kin of the alleged victim or other  
169 designated contact a written notification of the defendant's  
170 release.

171           4. Unless otherwise requested by the victim or the  
172 appropriate next of kin of the victim or other designated  
173 contact, the information contained on the victim notification  
174 card must be sent by the chief administrator, or designee, of  
175 the appropriate facility to the subsequent correctional or  
176 residential commitment facility following the sentencing and  
177 incarceration of the defendant, and unless otherwise requested  
178 by the victim or the appropriate next of kin of the victim or  
179 other designated contact, he or she must be notified of the  
180 release of the defendant from incarceration as provided by law.

181           5. If the defendant was arrested pursuant to a warrant  
182 issued or taken into custody pursuant to s. 985.101 in a  
183 jurisdiction other than the jurisdiction in which the defendant  
184 is being released, and the alleged victim or appropriate next of



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185 kin of the alleged victim or other designated contact does not  
186 waive the option for notification of release, the chief  
187 correctional officer or chief administrator of the facility  
188 releasing the defendant shall make a reasonable attempt to  
189 immediately notify the chief correctional officer of the  
190 jurisdiction in which the warrant was issued or the juvenile was  
191 taken into custody pursuant to s. 985.101, and the chief  
192 correctional officer of that jurisdiction shall make a  
193 reasonable attempt to notify the alleged victim or appropriate  
194 next of kin of the alleged victim or other designated contact,  
195 as provided in this paragraph, that the defendant has been or  
196 will be released.

197 Section 10. For the purpose of incorporating the amendment  
198 made by this act to section 985.101, Florida Statutes, in a  
199 reference thereto, subsection (2) of section 985.439, Florida  
200 Statutes, is reenacted to read:

201 985.439 Violation of probation or postcommitment  
202 probation.—

203 (2) A child taken into custody under s. 985.101 for  
204 violating the conditions of probation shall be screened and  
205 detained or released based on his or her risk assessment  
206 instrument score.

207 Section 11. For the purpose of incorporating the amendment  
208 made by this act to section 985.24, Florida Statutes, in a  
209 reference thereto, subsection (1) of section 985.25, Florida  
210 Statutes, is reenacted to read:

211 985.25 Detention intake.—

212 (1) The department shall receive custody of a child who has  
213 been taken into custody from the law enforcement agency or court





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214 and shall review the facts in the law enforcement report or  
215 probable cause affidavit and make such further inquiry as may be  
216 necessary to determine whether detention care is appropriate.

217 (a) During the period of time from the taking of the child  
218 into custody to the date of the detention hearing, the initial  
219 decision as to the child's placement into detention care shall  
220 be made by the department under ss. 985.24 and 985.245(1).

221 (b) The department shall base the decision whether to place  
222 the child into detention care on an assessment of risk in  
223 accordance with the risk assessment instrument and procedures  
224 developed by the department under s. 985.245, except that a  
225 child shall be placed in secure detention care until the child's  
226 detention hearing if the child meets the criteria specified in  
227 s. 985.255(1)(f) or is charged with possessing or discharging a  
228 firearm on school property in violation of s. 790.115.

229 (c) If the final score on the child's risk assessment  
230 instrument indicates detention care is appropriate, but the  
231 department otherwise determines the child should be released,  
232 the department shall contact the state attorney, who may  
233 authorize release.

234 (d) If the final score on the risk assessment instrument  
235 indicates detention is not appropriate, the child may be  
236 released by the department in accordance with ss. 985.115 and  
237 985.13.

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239 Under no circumstances shall the department or the state  
240 attorney or law enforcement officer authorize the detention of  
241 any child in a jail or other facility intended or used for the  
242 detention of adults, without an order of the court.



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

And the title is amended as follows:

Between lines 21 and 22

insert:

amending s. 985.03, F.S.; redefining the term "child";  
creating s. 985.031, F.S.; prohibiting children  
younger than a certain age from being adjudicated  
delinquent, arrested, or charged with a crime;  
amending s. 985.101, F.S.; authorizing children of at  
least a specified age, rather than of any age, to be  
taken into custody under certain circumstances;  
authorizing children of specified ages to be taken  
into custody or arrested only under certain  
circumstances; providing construction; authorizing a  
child enrolled in a primary or secondary school to be  
taken into custody or arrested only under certain  
circumstances; providing construction; amending s.  
985.24, F.S.; requiring that children who are taken  
into custody pursuant to certain circuit court orders  
be treated in a specified manner and be detained only  
pursuant to specified findings; reenacting s.  
316.003(11), F.S., relating to the definition of the  
term "child," to incorporate the amendment made to s.  
985.03, F.S., in a reference thereto; reenacting ss.  
960.001(1)(b) and 985.439(2), F.S., both relating to  
children being taken into custody, to incorporate the  
amendment made to s. 985.101, F.S., in references  
thereto; reenacting s. 985.25(1), F.S., relating to a



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detention intake, to incorporate the amendment made to  
s. 985.24, F.S., in a reference thereto;