

By the Committee on Criminal Justice; and Senator Powell

591-03455-20

2020618c1

1 A bill to be entitled

2 An act relating to the detention of children; amending  
3 s. 985.265, F.S.; prohibiting the holding of a child  
4 awaiting trial who is treated as an adult for purposes  
5 of criminal prosecution in a jail or other facility  
6 intended or used for the detention of adults;  
7 providing an exception; requiring the court to  
8 consider specified factors in making a certain  
9 determination; providing a requirement and a  
10 prohibition if a court determines that it is in the  
11 interest of justice to allow a child to be held in a  
12 jail or other facility intended or used for the  
13 detention of adults; deleting provisions under which a  
14 court is required to order the delivery of a child to  
15 a jail or other facility intended or used for the  
16 detention of adults; conforming a provision to changes  
17 made by the act; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsection (5) of section 985.265, Florida  
22 Statutes, is amended to read:

23 985.265 Detention transfer and release; education; adult  
24 jails.-

25 (5) (a) Unless a court finds in writing and after a hearing  
26 that it is in the interest of justice, a child awaiting trial or  
27 other legal process who is treated as an adult for purposes of  
28 prosecution in criminal court and is housed in a secure facility  
29 may not be held in a ~~The court shall order the delivery of a~~

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30 ~~child to a jail or other facility intended or used for the~~  
31 ~~detention of adults.~~ In determining whether it is in the  
32 interest of justice to allow a child to be held in a jail or  
33 other facility intended or used for the detention of adults, a  
34 court shall consider all of the following:

35 1. The age of the juvenile.

36 2. The physical and mental maturity of the juvenile.

37 3. The present mental state of the juvenile, including  
38 whether the juvenile presents an imminent risk of harm to  
39 himself or herself.

40 4. The nature and circumstances of the alleged offense.

41 5. The juvenile's history of prior delinquent acts.

42 6. The relative ability of the available adult and juvenile  
43 detention facilities to not only meet the specific needs of the  
44 juvenile but also to protect the safety of the public as well as  
45 other juveniles detained in such facilities.

46 7. Any other relevant factor.

47 (b) If a court determines that it is in the interest of  
48 justice to allow a child to be held in a jail or other facility  
49 intended or used for the detention of adults:

50 1. The court must hold a hearing no less frequently than  
51 once every 30 days, or in the case of a rural jurisdiction, no  
52 less frequently than once every 45 days, to review whether it is  
53 still in the interest of justice to allow the child to be so  
54 held; and

55 2. The child may not be held in a jail or other facility  
56 intended or used for the detention of adults for more than 180  
57 days, unless the court in writing determines there is good cause  
58 for an extension or the child expressly waives this limitation.

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59 ~~(a) When the child has been transferred or indicted for~~  
60 ~~criminal prosecution as an adult under part X, except that the~~  
61 ~~court may not order or allow a child alleged to have committed a~~  
62 ~~misdemeanor who is being transferred for criminal prosecution~~  
63 ~~pursuant to either s. 985.556 or s. 985.557 to be detained or~~  
64 ~~held in a jail or other facility intended or used for the~~  
65 ~~detention of adults; however, such child may be held temporarily~~  
66 ~~in a detention facility; or~~

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

69  
70 The child held in a jail or other facility intended or used for  
71 the detention of adults shall be housed separately from adult  
72 inmates to prohibit a child from having regular contact with  
73 incarcerated adults, including trusties. "Regular contact" means  
74 sight and sound contact. Separation of children from adults  
75 shall permit no more than haphazard or accidental contact. The  
76 receiving jail or other facility shall contain a separate  
77 section for children and shall have an adequate staff to  
78 supervise and monitor the child's activities at all times.  
79 Supervision and monitoring of children includes physical  
80 observation and documented checks by jail or receiving facility  
81 supervisory personnel at intervals not to exceed 10 minutes.  
82 This subsection does not prohibit placing two or more children  
83 in the same cell. Under no circumstances shall a child be placed  
84 in the same cell with an adult.

85 Section 2. This act shall take effect July 1, 2021.