

By Senator Brandes

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1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 20.316, F.S.; creating the Accountability and Program
4 Support Program within the Department of Juvenile
5 Justice and revising the name of an existing program;
6 amending s. 985.255, F.S.; authorizing a child to be
7 placed in secure detention on a judicial order if the
8 child has willfully failed to appear after proper
9 notice; requiring that, before issuing an order to
10 take a child into custody, a court make certain
11 determinations based on information obtained from the
12 department regarding the child's failure to appear;
13 authorizing the holding of certain children in secure
14 detention for up to a specified period of time;
15 specifying that children may be held in secure
16 detention for up to 72 hours immediately before the
17 next scheduled court hearing; amending s. 985.439,
18 F.S.; requiring each judicial circuit to develop a
19 specified plan in consultation with certain parties;
20 providing information upon which the plan must be
21 based; repealing s. 985.686, F.S., relating to the
22 shared county and state financial support
23 responsibility for juvenile detention; amending s.
24 985.6865, F.S.; deleting provisions relating to
25 legislative findings and intent; requiring the
26 Department of Juvenile Justice to calculate annually
27 by a certain date and provide to each county that is
28 not a fiscally constrained county and that does not
29 provide its own detention care for juveniles its

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30 annual percentage share of detention costs; requiring
31 each county that is not a fiscally constrained county
32 and that does not provide its own detention care for
33 juveniles to incorporate into its annual county budget
34 sufficient funds to pay its annual percentage share of
35 detention costs; amending ss. 985.245, 985.25, 985.26,
36 and 985.35, F.S.; conforming cross-references;
37 providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
40

41 Section 1. Upon the expiration and reversion of the
42 amendment made to section 20.316, Florida Statutes, pursuant to
43 section 65 of chapter 2020-114, Laws of Florida, subsections (2)
44 and (3) of section 20.316, Florida Statutes, are amended to
45 read:

46 20.316 Department of Juvenile Justice.—There is created a
47 Department of Juvenile Justice.

48 (2) DEPARTMENT PROGRAMS.—The following programs are
49 established within the Department of Juvenile Justice:

50 (a) Accountability and Program Support.

51 (d) ~~(a)~~ Prevention ~~and Victim~~ Services.

52 (c) ~~(b)~~ Intake and Detention.

53 (f) ~~(e)~~ Residential and Correctional Facilities.

54 (e) ~~(d)~~ Probation and Community Corrections.

55 (b) ~~(e)~~ Administration.
56

57 The secretary may establish assistant secretary positions and a
58 chief of staff position as necessary to administer the

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59 requirements of this section.

60 (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department
61 shall plan and administer its programs through a substate
62 structure that conforms to the boundaries of the judicial
63 circuits prescribed in s. 26.021. A county may seek placement in
64 a juvenile justice operating circuit other than as prescribed in
65 s. 26.021 for participation in the Prevention ~~and Victim~~
66 Services Program and the Probation and Community Corrections
67 Program by making a request of the chief circuit judge in each
68 judicial circuit affected by such request. Upon a showing that
69 geographic proximity, community identity, or other legitimate
70 concern for efficiency of operations merits alternative
71 placement, each affected chief circuit judge may authorize the
72 execution of an interagency agreement specifying the alternative
73 juvenile justice operating circuit in which the county is to be
74 placed and the basis for the alternative placement. Upon the
75 execution of said interagency agreement by each affected chief
76 circuit judge, the secretary may administratively place a county
77 in an alternative juvenile justice operating circuit pursuant to
78 the agreement.

79 Section 2. Present subsections (1), (2), and (3) of section
80 985.255, Florida Statutes, are redesignated as subsections (2),
81 (3), and (4), respectively, a new subsection (1) is added to
82 that section, and paragraph (e) of present subsection (1) and
83 paragraph (a) of present subsection (3) are amended, to read:

84 985.255 Detention criteria; detention hearing.—

85 (1) A child may be placed and held for up to 24 hours in
86 secure detention pending a detention hearing upon a judicial
87 order for failure to appear if the child has willfully failed to

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88 appear after proper notice. Before the court issues an order to
89 take such a child into custody, it must obtain sufficient
90 information from the department to make a preliminary
91 determination that the failure was willful and was not merely
92 due to the unavailability of transportation or to circumstances
93 beyond the child's control.

94 (2)~~(1)~~ Subject to s. 985.25(1), a child taken into custody
95 and placed into detention care shall be given a hearing within
96 24 hours after being taken into custody. At the hearing, the
97 court may order a continued detention status if:

98 (e) The child is detained on a judicial order for failure
99 to appear and has previously willfully failed to appear, after
100 proper notice:

101 1. For an adjudicatory hearing on the same case regardless
102 of the results of the risk assessment instrument; or

103 2. At two or more court hearings of any nature on the same
104 case regardless of the results of the risk assessment
105 instrument.

106
107 A child who meets the requirements of this paragraph may be held
108 in secure detention for up to 72 hours immediately before ~~in~~
109 ~~advance of~~ the next scheduled court hearing ~~pursuant to this~~
110 ~~paragraph~~. The child's failure to keep the clerk of court and
111 defense counsel informed of a current and valid mailing address
112 where the child will receive notice to appear at court
113 proceedings does not provide an adequate ground for excusal of
114 the child's nonappearance at the hearings.

115 (4) (a)~~(3) (a)~~ The purpose of the detention hearing required
116 under subsection (2) ~~(1)~~ is to determine the existence of

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117 probable cause that the child has committed the delinquent act
118 or violation of law that he or she is charged with and the need
119 for continued detention. The court shall use the results of the
120 risk assessment performed by the department and, based on the
121 criteria in subsection (2) ~~(1)~~, shall determine the need for
122 continued detention. If the child is a prolific juvenile
123 offender who is detained under s. 985.26(2)(c), the court shall
124 use the results of the risk assessment performed by the
125 department and the criteria in subsection (2) ~~(1)~~ or subsection
126 (3) ~~(2)~~ only to determine whether the prolific juvenile offender
127 should be held in secure detention.

128 Section 3. Subsection (1) of section 985.439, Florida
129 Statutes, is amended to read:

130 985.439 Violation of probation or postcommitment
131 probation.—

132 (1)(a) This section is applicable when the court has
133 jurisdiction over a child on probation or postcommitment
134 probation, regardless of adjudication.

135 (b) If the conditions of the probation program or the
136 postcommitment probation program are violated, the department or
137 the state attorney may bring the child before the court on a
138 petition alleging a violation of the program. A child who
139 violates the conditions of probation or postcommitment probation
140 must be brought before the court if sanctions are sought.

141 (c) Each judicial circuit shall develop a written plan, in
142 consultation with judges, the state attorney, the public
143 defender, the relevant law enforcement agency, and the
144 department, which describes a methodology for determining the
145 appropriate sanction or incentive if a child under supervision

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146 violates a condition of his or her probation which does not
147 involve a new law violation. These plans must be based upon the
148 principle that sanctions must reflect the seriousness of the
149 violation, the assessed criminogenic needs and risks of the
150 child, the child's age and maturity level, and how effective the
151 sanction or incentive will be in moving the child to compliant
152 behavior.

153 Section 4. Section 985.686, Florida Statutes, is repealed.

154 Section 5. Subsections (1) through (6) of section 985.6865,
155 Florida Statutes, are amended to read:

156 985.6865 Juvenile detention.—

157 ~~(1) The Legislature finds that various counties and the~~
158 ~~Department of Juvenile Justice have engaged in a multitude of~~
159 ~~legal proceedings regarding detention cost sharing for~~
160 ~~juveniles. Such litigation has largely focused on how the~~
161 ~~Department of Juvenile Justice calculates the detention costs~~
162 ~~that the counties are responsible for paying, leading to the~~
163 ~~overbilling of counties for a period of years. Additionally,~~
164 ~~litigation pending in 2016 is a financial burden on the~~
165 ~~taxpayers of this state.~~

166 ~~(2) It is the intent of the Legislature that all counties~~
167 ~~that are not fiscally constrained counties and that have pending~~
168 ~~administrative or judicial claims or challenges file a notice of~~
169 ~~voluntary dismissal with prejudice to dismiss all actions~~
170 ~~pending on or before February 1, 2016, against the state or any~~
171 ~~state agency related to juvenile detention cost sharing.~~
172 ~~Furthermore, all counties that are not fiscally constrained~~
173 ~~shall execute a release and waiver of any existing or future~~
174 ~~claims and actions arising from detention cost share prior to~~

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175 ~~the 2016-2017 fiscal year. The department may not seek~~
176 ~~reimbursement from counties complying with this subsection for~~
177 ~~any underpayment for any cost-sharing requirements before the~~
178 ~~2016-2017 fiscal year.~~

179 (1)~~(3)~~ As used in this section, the term:

180 (a) "Detention care" means secure detention and respite
181 beds for juveniles charged with a domestic violence crime.

182 (b) "Fiscally constrained county" means a county within a
183 rural area of opportunity as designated by the Governor pursuant
184 to s. 288.0656 or each county for which the value of a mill will
185 raise no more than \$5 million in revenue, based on the certified
186 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
187 from the previous July 1.

188 (c) "Total shared detention costs" means the amount of
189 funds expended by the department for the costs of detention care
190 for the prior fiscal year. This amount includes the most recent
191 actual certify forward amounts minus any funds it expends on
192 detention care for juveniles residing in fiscally constrained
193 counties or out of state.

194 (2)~~(4)~~ ~~Notwithstanding s. 985.686, for the 2017-2018 fiscal~~
195 ~~year, and each fiscal year thereafter, each county that is not a~~
196 ~~fiscally constrained county and that has taken the action~~
197 ~~fulfilling the intent of this section as described in subsection~~
198 ~~(2) shall pay its annual percentage share of 50 percent of the~~
199 ~~total shared detention costs. By Annually by July 15, 2017, and~~
200 ~~each year thereafter, the department shall calculate and provide~~
201 ~~to each county that is not a fiscally constrained county and~~
202 ~~that does not provide its own detention care for juveniles its~~
203 ~~annual percentage share by dividing the total number of~~

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204 detention days for juveniles residing in the county for the most
205 recently completed 12-month period by the total number of
206 detention days for juveniles in all counties that are not
207 fiscally constrained counties during the same period. The annual
208 percentage share of each county that is not a fiscally
209 constrained county and that does not provide its own detention
210 care for juveniles must be multiplied by 50 percent of the total
211 shared detention costs to determine that county's share of
212 detention costs. Beginning August 1, each such county shall pay
213 to the department its share of detention costs, which shall be
214 paid in 12 equal payments due on the first day of each month.
215 The state shall pay the remaining actual costs of detention
216 care.

217 (3)~~(5)~~ The state shall pay all costs of detention care for
218 juveniles residing in a fiscally constrained county and for
219 juveniles residing out of state. The state shall pay all costs
220 of detention care for juveniles housed in state detention
221 centers from counties that provide their own detention care for
222 juveniles.

223 (4)~~(6)~~ Each county that is not a fiscally constrained
224 county and that does not provide its own detention care for
225 juveniles ~~has taken the action fulfilling the intent of this~~
226 ~~section as described in subsection (2)~~ shall incorporate into
227 its annual county budget sufficient funds to pay its annual
228 percentage share of the total shared detention costs required by
229 subsection (2) ~~(4)~~.

230 Section 6. Subsection (1) of section 985.245, Florida
231 Statutes, is amended to read:

232 985.245 Risk assessment instrument.—

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233 (1) All determinations and court orders regarding placement
234 of a child into detention care shall comply with all
235 requirements and criteria provided in this part and shall be
236 based on a risk assessment of the child, unless the child is
237 placed into detention care as provided in s. 985.255(3) ~~s.~~
238 ~~985.255(2)~~.

239 Section 7. Subsection (1) of section 985.25, Florida
240 Statutes, is amended to read:

241 985.25 Detention intake.—

242 (1) The department shall receive custody of a child who has
243 been taken into custody from the law enforcement agency or court
244 and shall review the facts in the law enforcement report or
245 probable cause affidavit and make such further inquiry as may be
246 necessary to determine whether detention care is appropriate.

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

251 (b) The department shall base the decision whether to place
252 the child into detention care on an assessment of risk in
253 accordance with the risk assessment instrument and procedures
254 developed by the department under s. 985.245, except that a
255 child shall be placed in secure detention care until the child's
256 detention hearing if the child meets the criteria specified in
257 s. 985.255(2)(f) ~~s. 985.255(1)(f)~~ or is charged with possessing
258 or discharging a firearm on school property in violation of s.
259 790.115.

260 (c) If the final score on the child's risk assessment
261 instrument indicates detention care is appropriate, but the

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262 department otherwise determines the child should be released,
263 the department shall contact the state attorney, who may
264 authorize release.

265 (d) If the final score on the risk assessment instrument
266 indicates detention is not appropriate, the child may be
267 released by the department in accordance with ss. 985.115 and
268 985.13.

269
270 Under no circumstances shall the department or the state
271 attorney or law enforcement officer authorize the detention of
272 any child in a jail or other facility intended or used for the
273 detention of adults, without an order of the court.

274 Section 8. Paragraphs (c) and (d) of subsection (2) of
275 section 985.26, Florida Statutes, are amended to read:

276 985.26 Length of detention.—

277 (2)

278 (c) A prolific juvenile offender under s. 985.255(2)(f) ~~s.~~
279 ~~985.255(1)(f)~~ shall be placed on supervised release detention
280 care with electronic monitoring or in secure detention care
281 under a special detention order until disposition. If secure
282 detention care is ordered by the court, it must be authorized
283 under this part and may not exceed:

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

287 2. Fifteen days after the entry of an order of
288 adjudication.

289

290 As used in this paragraph, the term "disposition" means a

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291 declination to file under s. 985.15(1)(h), the entry of nolle
292 prosequi for the charges, the filing of an indictment under s.
293 985.56 or an information under s. 985.557, a dismissal of the
294 case, or an order of final disposition by the court.

295 (d) A prolific juvenile offender under s. 985.255(2)(f) ~~s.~~
296 ~~985.255(1)(f)~~ who is taken into custody for a violation of the
297 conditions of his or her supervised release detention must be
298 held in secure detention until a detention hearing is held.

299 Section 9. Subsection (1) of section 985.35, Florida
300 Statutes, is amended to read:

301 985.35 Adjudicatory hearings; withheld adjudications;
302 orders of adjudication.—

303 (1)(a) Except as provided in paragraph (b), the
304 adjudicatory hearing must be held as soon as practicable after
305 the petition alleging that a child has committed a delinquent
306 act or violation of law is filed and in accordance with the
307 Florida Rules of Juvenile Procedure; but reasonable delay for
308 the purpose of investigation, discovery, or procuring counsel or
309 witnesses shall be granted. If the child is being detained, the
310 time limitations in s. 985.26(2) and (3) apply.

311 (b) If the child is a prolific juvenile offender under s.
312 985.255(2)(f) ~~s. 985.255(1)(f)~~, the adjudicatory hearing must be
313 held within 45 days after the child is taken into custody unless
314 a delay is requested by the child.

315 Section 10. This act shall take effect July 1, 2021.