

By the Committee on Criminal Justice; and 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. 985.101, F.S.; authorizing a court to
7 order that a child be taken into custody for failure
8 to appear; requiring a court to consider specified
9 information before it issues such an order; amending
10 s. 985.435, F.S.; requiring each judicial circuit to
11 develop, in consultation with specified persons and
12 entities, a written plan specifying the alternative
13 consequence component which must be based upon certain
14 principles; providing that the alternative consequence
15 component is designed to provide swift and appropriate
16 consequences or incentives to a child who is alleged
17 to be noncompliant with or in violation of probation;
18 repealing s. 985.686, F.S., relating to the shared
19 county and state financial support responsibility for
20 juvenile detention; amending s. 985.6865, F.S.;
21 deleting provisions relating to legislative findings
22 and intent; requiring the Department of Juvenile
23 Justice to calculate annually by a certain date and
24 provide to each county that is not a fiscally
25 constrained county and that does not provide its own
26 detention care for juveniles its annual percentage
27 share of detention costs; requiring each county that
28 is not a fiscally constrained county and that does not
29 provide its own detention care for juveniles to

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30 incorporate into its annual county budget sufficient
31 funds to pay its annual percentage share of detention
32 costs; reenacting ss. 960.001(1)(b) and 985.439(2),
33 F.S., relating to guidelines for fair treatment of
34 victims and witnesses in the criminal justice and
35 juvenile justice systems and violation of probation or
36 postcommitment probation, respectively, to incorporate
37 the amendment made to s. 985.101, F.S., in references
38 thereto; reenacting s. 985.565(4)(b), F.S., relating
39 to sentencing alternatives, to incorporate the
40 amendment made to s. 985.435, F.S., in a reference
41 thereto; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

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

50 20.316 Department of Juvenile Justice.—There is created a
51 Department of Juvenile Justice.

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

54 (a) Accountability and Program Support.

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

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

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

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

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59 (b) ~~(e)~~ Administration.

60
61 The secretary may establish assistant secretary positions and a
62 chief of staff position as necessary to administer the
63 requirements of this section.

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

83 Section 2. Subsection (5) is added to section 985.101,
84 Florida Statutes, to read:

85 985.101 Taking a child into custody.—

86 (5) A court may order that a child be taken into custody
87 for failure to appear. Before the court issues such an order, it

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88 must consider all of the following information relating to
89 whether the child's nonappearance was willful:

90 (a) Whether notice was sent to the address in the official
91 court record.

92 (b) Whether notice was given to the child in any format by
93 anyone.

94 (c) Whether counsel, if any, for the child had contact or
95 attempted to have contact with the child.

96 (d) Whether a department representative had contact or
97 attempted to have contact with the child.

98 (e) Whether the department has any specific information to
99 assist the court in this decision.

100 Section 3. Subsection (4) of section 985.435, Florida
101 Statutes, is amended to read:

102 985.435 Probation and postcommitment probation; community
103 service.—

104 (4) A probation program may also include an alternative
105 consequence component to address instances in which a child is
106 noncompliant with technical conditions of his or her probation
107 but has not committed any new violations of law. Each circuit
108 shall develop, in consultation with judges, the state attorney,
109 the public defender, relevant law enforcement agencies, and the
110 department, a written plan specifying the alternative
111 consequence component which must be based upon the principle
112 that sanctions must reflect the seriousness of the violation,
113 the assessed criminogenic needs and risks of the child, the
114 child's age and maturity level, and how effective the sanction
115 or incentive will be in moving the child to compliant behavior.

116 The alternative consequence component is designed to provide

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117 swift and appropriate consequences or incentives to a child who
118 is alleged to be noncompliant with or in violation of ~~to any~~
119 ~~noncompliance with technical conditions of~~ probation. If the
120 probation program includes this component, specific consequences
121 that apply to noncompliance with specific technical conditions
122 of probation, as well as incentives used to move the child
123 toward compliant behavior, must be detailed in the disposition
124 order.

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

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

128 985.6865 Juvenile detention.—

129 ~~(1) The Legislature finds that various counties and the~~
130 ~~Department of Juvenile Justice have engaged in a multitude of~~
131 ~~legal proceedings regarding detention cost sharing for~~
132 ~~juveniles. Such litigation has largely focused on how the~~
133 ~~Department of Juvenile Justice calculates the detention costs~~
134 ~~that the counties are responsible for paying, leading to the~~
135 ~~overbilling of counties for a period of years. Additionally,~~
136 ~~litigation pending in 2016 is a financial burden on the~~
137 ~~taxpayers of this state.~~

138 ~~(2) It is the intent of the Legislature that all counties~~
139 ~~that are not fiscally constrained counties and that have pending~~
140 ~~administrative or judicial claims or challenges file a notice of~~
141 ~~voluntary dismissal with prejudice to dismiss all actions~~
142 ~~pending on or before February 1, 2016, against the state or any~~
143 ~~state agency related to juvenile detention cost sharing.~~
144 ~~Furthermore, all counties that are not fiscally constrained~~
145 ~~shall execute a release and waiver of any existing or future~~

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146 ~~claims and actions arising from detention cost share prior to~~
147 ~~the 2016-2017 fiscal year. The department may not seek~~
148 ~~reimbursement from counties complying with this subsection for~~
149 ~~any underpayment for any cost sharing requirements before the~~
150 ~~2016-2017 fiscal year.~~

151 ~~(1)~~(3) As used in this section, the term:

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

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

160 (c) "Total shared detention costs" means the amount of
161 funds expended by the department for the costs of detention care
162 for the prior fiscal year. This amount includes the most recent
163 actual certify forward amounts minus any funds it expends on
164 detention care for juveniles residing in fiscally constrained
165 counties or out of state.

166 ~~(2)~~(4) ~~Notwithstanding s. 985.686, for the 2017-2018 fiscal~~
167 ~~year, and each fiscal year thereafter, each county that is not a~~
168 ~~fiscally constrained county and that has taken the action~~
169 ~~fulfilling the intent of this section as described in subsection~~
170 ~~(2) shall pay its annual percentage share of 50 percent of the~~
171 ~~total shared detention costs. By Annually by July 15, 2017, and~~
172 ~~each year thereafter, the department shall calculate and provide~~
173 ~~to each county that is not a fiscally constrained county and~~
174 ~~that does not provide its own detention care for juveniles its~~

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175 annual percentage share by dividing the total number of
176 detention days for juveniles residing in the county for the most
177 recently completed 12-month period by the total number of
178 detention days for juveniles in all counties that are not
179 fiscally constrained counties during the same period. The annual
180 percentage share of each county that is not a fiscally
181 constrained county and that does not provide its own detention
182 care for juveniles must be multiplied by 50 percent of the total
183 shared detention costs to determine that county's share of
184 detention costs. Beginning August 1, each such county shall pay
185 to the department its share of detention costs, which shall be
186 paid in 12 equal payments due on the first day of each month.
187 The state shall pay the remaining actual costs of detention
188 care.

189 (3)~~(5)~~ The state shall pay all costs of detention care for
190 juveniles residing in a fiscally constrained county and for
191 juveniles residing out of state. The state shall pay all costs
192 of detention care for juveniles housed in state detention
193 centers from counties that provide their own detention care for
194 juveniles.

195 (4)~~(6)~~ Each county that is not a fiscally constrained
196 county and that does not provide its own detention care for
197 juveniles ~~has taken the action fulfilling the intent of this~~
198 ~~section as described in subsection (2)~~ shall incorporate into
199 its annual county budget sufficient funds to pay its annual
200 percentage share of the total shared detention costs required by
201 subsection (2) ~~(4)~~.

202 Section 6. For the purpose of incorporating the amendment
203 made by this act to section 985.101, Florida Statutes, in

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204 references thereto, paragraph (b) of subsection (1) of section
205 960.001, Florida Statutes, is reenacted to read:

206 960.001 Guidelines for fair treatment of victims and
207 witnesses in the criminal justice and juvenile justice systems.-

208 (1) The Department of Legal Affairs, the state attorneys,
209 the Department of Corrections, the Department of Juvenile
210 Justice, the Florida Commission on Offender Review, the State
211 Courts Administrator and circuit court administrators, the
212 Department of Law Enforcement, and every sheriff's department,
213 police department, or other law enforcement agency as defined in
214 s. 943.10(4) shall develop and implement guidelines for the use
215 of their respective agencies, which guidelines are consistent
216 with the purposes of this act and s. 16(b), Art. I of the State
217 Constitution and are designed to implement s. 16(b), Art. I of
218 the State Constitution and to achieve the following objectives:

219 (b) *Information for purposes of notifying victim or*
220 *appropriate next of kin of victim or other designated contact of*
221 *victim.*-In the case of a homicide, pursuant to chapter 782; or a
222 sexual offense, pursuant to chapter 794; or an attempted murder
223 or sexual offense, pursuant to chapter 777; or stalking,
224 pursuant to s. 784.048; or domestic violence, pursuant to s.
225 25.385:

226 1. The arresting law enforcement officer or personnel of an
227 organization that provides assistance to a victim or to the
228 appropriate next of kin of the victim or other designated
229 contact must request that the victim or appropriate next of kin
230 of the victim or other designated contact complete a victim
231 notification card. However, the victim or appropriate next of
232 kin of the victim or other designated contact may choose not to

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233 complete the victim notification card.

234 2. Unless the victim or the appropriate next of kin of the
235 victim or other designated contact waives the option to complete
236 the victim notification card, a copy of the victim notification
237 card must be filed with the incident report or warrant in the
238 sheriff's office of the jurisdiction in which the incident
239 report or warrant originated. The notification card shall, at a
240 minimum, consist of:

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

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

244 c. The name, address, and telephone number of a designated
245 contact other than the victim or appropriate next of kin of the
246 victim; and

247 d. Any relevant identification or case numbers assigned to
248 the case.

249 3. The chief administrator, or a person designated by the
250 chief administrator, of a county jail, municipal jail, juvenile
251 detention facility, or residential commitment facility shall
252 make a reasonable attempt to notify the alleged victim or
253 appropriate next of kin of the alleged victim or other
254 designated contact within 4 hours following the release of the
255 defendant on bail or, in the case of a juvenile offender, upon
256 the release from residential detention or commitment. If the
257 chief administrator, or designee, is unable to contact the
258 alleged victim or appropriate next of kin of the alleged victim
259 or other designated contact by telephone, the chief
260 administrator, or designee, must send to the alleged victim or
261 appropriate next of kin of the alleged victim or other

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262 designated contact a written notification of the defendant's
263 release.

264 4. Unless otherwise requested by the victim or the
265 appropriate next of kin of the victim or other designated
266 contact, the information contained on the victim notification
267 card must be sent by the chief administrator, or designee, of
268 the appropriate facility to the subsequent correctional or
269 residential commitment facility following the sentencing and
270 incarceration of the defendant, and unless otherwise requested
271 by the victim or the appropriate next of kin of the victim or
272 other designated contact, he or she must be notified of the
273 release of the defendant from incarceration as provided by law.

274 5. If the defendant was arrested pursuant to a warrant
275 issued or taken into custody pursuant to s. 985.101 in a
276 jurisdiction other than the jurisdiction in which the defendant
277 is being released, and the alleged victim or appropriate next of
278 kin of the alleged victim or other designated contact does not
279 waive the option for notification of release, the chief
280 correctional officer or chief administrator of the facility
281 releasing the defendant shall make a reasonable attempt to
282 immediately notify the chief correctional officer of the
283 jurisdiction in which the warrant was issued or the juvenile was
284 taken into custody pursuant to s. 985.101, and the chief
285 correctional officer of that jurisdiction shall make a
286 reasonable attempt to notify the alleged victim or appropriate
287 next of kin of the alleged victim or other designated contact,
288 as provided in this paragraph, that the defendant has been or
289 will be released.

290 Section 7. For the purpose of incorporating the amendment

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291 made by this act to section 985.101, Florida Statutes, in a
292 reference thereto, subsection (2) of section 985.439, Florida
293 Statutes, is reenacted to read:

294 985.439 Violation of probation or postcommitment
295 probation.—

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

300 Section 8. For the purpose of incorporating the amendment
301 made by this act to section 985.435, Florida Statutes, in a
302 reference thereto, paragraph (b) of subsection (4) of section
303 985.565, Florida Statutes, is reenacted to read:

304 985.565 Sentencing powers; procedures; alternatives for
305 juveniles prosecuted as adults.—

306 (4) SENTENCING ALTERNATIVES.—

307 (b) *Juvenile sanctions*.—For juveniles transferred to adult
308 court but who do not qualify for such transfer under s.
309 985.556(3), the court may impose juvenile sanctions under this
310 paragraph. If juvenile sentences are imposed, the court shall,
311 under this paragraph, adjudge the child to have committed a
312 delinquent act. Adjudication of delinquency may not be deemed a
313 conviction, nor shall it operate to impose any of the civil
314 disabilities ordinarily resulting from a conviction. The court
315 shall impose an adult sanction or a juvenile sanction and may
316 not sentence the child to a combination of adult and juvenile
317 punishments. An adult sanction or a juvenile sanction may
318 include enforcement of an order of restitution or probation
319 previously ordered in any juvenile proceeding. However, if the

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320 court imposes a juvenile sanction and the department determines
321 that the sanction is unsuitable for the child, the department
322 shall return custody of the child to the sentencing court for
323 further proceedings, including the imposition of adult
324 sanctions. Upon adjudicating a child delinquent under subsection
325 (1), the court may:

326 1. Place the child in a probation program under the
327 supervision of the department for an indeterminate period of
328 time until the child reaches the age of 19 years or sooner if
329 discharged by order of the court.

330 2. Commit the child to the department for treatment in an
331 appropriate program for children for an indeterminate period of
332 time until the child is 21 or sooner if discharged by the
333 department. The department shall notify the court of its intent
334 to discharge no later than 14 days before discharge. Failure of
335 the court to timely respond to the department's notice shall be
336 considered approval for discharge.

337 3. Order disposition under ss. 985.435, 985.437, 985.439,
338 985.441, 985.45, and 985.455 as an alternative to youthful
339 offender or adult sentencing if the court determines not to
340 impose youthful offender or adult sanctions.

341

342 It is the intent of the Legislature that the criteria and
343 guidelines in this subsection are mandatory and that a
344 determination of disposition under this subsection is subject to
345 the right of the child to appellate review under s. 985.534.

346 Section 9. This act shall take effect July 1, 2021.