

By Senator Bracy

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1 A bill to be entitled
2 An act relating to prosecuting children as adults;
3 amending s. 985.556, F.S.; increasing the age of a
4 child at which a state attorney may, or is required
5 to, request a court to transfer the child to adult
6 court for criminal prosecution; amending s. 985.557,
7 F.S.; increasing the age of a child at which a state
8 attorney may file an information against the child for
9 criminal prosecution as an adult; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (2) and (3) of section 985.556,
15 Florida Statutes, are amended to read:

16 985.556 Waiver of juvenile court jurisdiction; hearing.—

17 (2) INVOLUNTARY DISCRETIONARY WAIVER.—Except as provided in
18 subsection (3), the state attorney may file a motion requesting
19 the court to transfer the child for criminal prosecution if the
20 child was 15 ~~14~~ years of age or older at the time the alleged
21 delinquent act or violation of law was committed.

22 (3) INVOLUNTARY MANDATORY WAIVER.—

23 (a) If the child was 15 ~~14~~ years of age or older, and if
24 the child has been previously adjudicated delinquent for an act
25 classified as a felony, which adjudication was for the
26 commission of, attempt to commit, or conspiracy to commit
27 murder, sexual battery, armed or strong-armed robbery,
28 carjacking, home-invasion robbery, aggravated battery,
29 aggravated assault, or burglary with an assault or battery, and

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30 the child is currently charged with a second or subsequent
31 violent crime against a person; or

32 (b) If the child was 15 ~~14~~ years of age or older at the
33 time of commission of a fourth or subsequent alleged felony
34 offense and the child was previously adjudicated delinquent or
35 had adjudication withheld for or was found to have committed, or
36 to have attempted or conspired to commit, three offenses that
37 are felony offenses if committed by an adult, and one or more of
38 such felony offenses involved the use or possession of a firearm
39 or violence against a person;

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41 the state attorney shall request the court to transfer and
42 certify the child for prosecution as an adult or shall provide
43 written reasons to the court for not making such request, or
44 proceed under s. 985.557(1). Upon the state attorney's request,
45 the court shall either enter an order transferring the case and
46 certifying the case for trial as if the child were an adult or
47 provide written reasons for not issuing such an order.

48 Section 2. Subsection (1) of section 985.557, Florida
49 Statutes, is amended to read:

50 985.557 Direct filing of an information; discretionary
51 criteria.—

52 (1) DISCRETIONARY DIRECT FILE.—

53 (a) With respect to any child who was ~~14~~ or 15 or 16 years
54 of age at the time the alleged offense was committed, the state
55 attorney may file an information when in the state attorney's
56 judgment and discretion the public interest requires that adult
57 sanctions be considered or imposed and when the offense charged
58 is for the commission of, attempt to commit, or conspiracy to

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- 59 commit:
- 60 1. Arson;
 - 61 2. Sexual battery;
 - 62 3. Robbery;
 - 63 4. Kidnapping;
 - 64 5. Aggravated child abuse;
 - 65 6. Aggravated assault;
 - 66 7. Aggravated stalking;
 - 67 8. Murder;
 - 68 9. Manslaughter;
 - 69 10. Unlawful throwing, placing, or discharging of a
 - 70 destructive device or bomb;
 - 71 11. Armed burglary in violation of s. 810.02(2)(b) or
 - 72 specified burglary of a dwelling or structure in violation of s.
 - 73 810.02(2)(c), or burglary with an assault or battery in
 - 74 violation of s. 810.02(2)(a);
 - 75 12. Aggravated battery;
 - 76 13. Any lewd or lascivious offense committed upon or in the
 - 77 presence of a person less than 16 years of age;
 - 78 14. Carrying, displaying, using, threatening, or attempting
 - 79 to use a weapon or firearm during the commission of a felony;
 - 80 15. Grand theft in violation of s. 812.014(2)(a);
 - 81 16. Possessing or discharging any weapon or firearm on
 - 82 school property in violation of s. 790.115;
 - 83 17. Home invasion robbery;
 - 84 18. Carjacking; or
 - 85 19. Grand theft of a motor vehicle in violation of s.
 - 86 812.014(2)(c)6. or grand theft of a motor vehicle valued at
 - 87 \$20,000 or more in violation of s. 812.014(2)(b) if the child

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88 has a previous adjudication for grand theft of a motor vehicle
89 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

90 (b) With respect to any child who was ~~16~~ or 17 years of age
91 at the time the alleged offense was committed, the state
92 attorney may file an information when in the state attorney's
93 judgment and discretion the public interest requires that adult
94 sanctions be considered or imposed. However, the state attorney
95 may not file an information on a child charged with a
96 misdemeanor, unless the child has had at least two previous
97 adjudications or adjudications withheld for delinquent acts, one
98 of which involved an offense classified as a felony under state
99 law.

100 Section 3. This act shall take effect July 1, 2021.