

By Senator Bracy

11-00505-21

2021626__

1 A bill to be entitled
2 An act relating to juvenile justice; amending s.
3 985.03, F.S.; redefining the terms "child,"
4 "juvenile," and "youth"; creating s. 985.031, F.S.;
5 providing a short title; prohibiting a child younger
6 than a certain age from being adjudicated delinquent,
7 arrested, or charged with a violation of law or a
8 delinquent act; providing an exception; amending s.
9 985.101, F.S.; authorizing children of at least a
10 specified age, rather than of any age, to be taken
11 into custody under certain circumstances; authorizing
12 children of specified ages to be taken into custody or
13 arrested only under certain circumstances; providing
14 construction; authorizing a child enrolled in a
15 primary or secondary school to be taken into custody
16 or arrested at the school he or she attends only under
17 certain circumstances; providing construction;
18 amending s. 985.24, F.S.; requiring that children who
19 are taken into custody pursuant to certain circuit
20 court orders be treated in a specified manner and be
21 detained only pursuant to specified findings;
22 reenacting s. 316.003(11), F.S., relating to the
23 definition of the term "child," to incorporate the
24 amendment made to s. 985.03, F.S., in a reference
25 thereto; reenacting ss. 960.001(1)(b) and 985.439(2),
26 F.S., both relating to children being taken into
27 custody, to incorporate the amendment made to s.
28 985.101, F.S., in references thereto; reenacting s.
29 985.25(1), F.S., relating to a detention intake, to

11-00505-21

2021626__

30 incorporate the amendment made to s. 985.24, F.S., in
31 a reference thereto; providing an effective date.
32

33 Be It Enacted by the Legislature of the State of Florida:
34

35 Section 1. Subsection (7) of section 985.03, Florida
36 Statutes, is amended to read:

37 985.03 Definitions.—As used in this chapter, the term:

38 (7) "Child," ~~or~~ "juvenile," or "youth" means any person 7
39 years of age or older but younger than 18 years of age ~~under the~~
40 ~~age of 18~~ or any person who is alleged to have committed a
41 violation of law occurring after the person reached 7 years of
42 age or older and before ~~prior to the time~~ that person reached
43 ~~the age of 18 years of age~~.

44 Section 2. Section 985.031, Florida Statutes, is created to
45 read:

46 985.031 Age limitation; exception.—

47 (1) This section may be cited as the "Kaia Rolle Act."

48 (2) A child younger than 7 years of age may not be
49 adjudicated delinquent, arrested, or charged with a violation of
50 law or a delinquent act on the basis of acts occurring before he
51 or she reaches 7 years of age.

52 (3) This section does not apply to a child who commits a
53 forcible felony as defined in s. 776.08.

54 Section 3. Subsection (1) of section 985.101, Florida
55 Statutes, is amended, and subsections (5) and (6) are added to
56 that section, to read:

57 985.101 Taking a child into custody.—

58 (1) A child 15 years of age or older may be taken into

11-00505-21

2021626__

59 custody under any of the following circumstances:

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

63 (b) For a delinquent act or violation of law, pursuant to
64 Florida law pertaining to a lawful arrest. If such delinquent
65 act or violation of law would be a felony if committed by an
66 adult or involves a crime of violence, the arresting authority
67 shall immediately notify the district school superintendent, or
68 the superintendent's designee, of the school district with
69 educational jurisdiction of the child. Such notification must
70 ~~shall~~ include other education providers, such as the Florida
71 School for the Deaf and the Blind, university developmental
72 research schools, and private elementary and secondary schools.
73 The information obtained by the superintendent of schools
74 pursuant to this section must be released within 48 hours after
75 receipt to appropriate school personnel, including the principal
76 of the child's school, or as otherwise provided by law. The
77 principal must immediately notify the child's immediate
78 classroom teachers. Information provided by an arresting
79 authority under this paragraph may not be placed in the
80 student's permanent record and must ~~shall~~ be removed from all
81 school records no later than 9 months after the date of the
82 arrest.

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

85 (d) By a law enforcement officer who has probable cause to
86 believe that the child is in violation of the conditions of the
87 child's probation, supervised release detention, postcommitment

11-00505-21

2021626__

88 probation, or conditional release supervision; has absconded
89 from nonresidential commitment; or has escaped from residential
90 commitment.

91
92 This ~~Nothing in this~~ subsection may not shall be construed to
93 allow the detention of a child who does not meet the detention
94 criteria in part V of this chapter.

95 (5) A child 7 years of age or older but younger than 15
96 years of age may be taken into custody or arrested only under
97 any of the following circumstances:

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

100 (b) By a law enforcement officer who has probable cause to
101 believe that the child has absconded from nonresidential
102 commitment or has escaped from residential commitment.

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

106
107 This subsection may not be construed to allow the detention of a
108 child who does not meet the detention criteria in part V of this
109 chapter.

110 (6) A child enrolled in a primary or secondary school may
111 be taken into custody or arrested at the school he or she
112 attends only under any the following circumstances:

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

115 (b) By a law enforcement officer who has probable cause to
116 believe that detention is necessary to prevent an imminent

11-00505-21

2021626__

117 threat of serious bodily harm to another individual.

118

119 This subsection may not be construed to allow the detention of a
120 child who does not meet the detention criteria in part V of this
121 chapter.

122 Section 4. Present subsection (4) of section 985.24,
123 Florida Statutes, is redesignated as subsection (5), and a new
124 subsection (4) is added to that section, to read:

125 985.24 Use of detention; prohibitions.—

126 (4) A child who is taken into custody pursuant to a
127 summons, an arrest warrant, or any other circuit court order
128 that does not explicitly require detention must be treated in
129 the same manner as a child taken into custody under s.
130 985.101(1) (b) and may be detained only pursuant to a finding
131 under subsection (1).

132 Section 5. For the purpose of incorporating the amendment
133 made by this act to section 985.03, Florida Statutes, in a
134 reference thereto, subsection (11) of section 316.003, Florida
135 Statutes, is reenacted to read:

136 316.003 Definitions.—The following words and phrases, when
137 used in this chapter, shall have the meanings respectively
138 ascribed to them in this section, except where the context
139 otherwise requires:

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

142 Section 6. For the purpose of incorporating the amendment
143 made by this act to section 985.101, Florida Statutes, in a
144 reference thereto, paragraph (b) of subsection (1) of section
145 960.001, Florida Statutes, is reenacted to read:

11-00505-21

2021626__

146 960.001 Guidelines for fair treatment of victims and
147 witnesses in the criminal justice and juvenile justice systems.-

148 (1) The Department of Legal Affairs, the state attorneys,
149 the Department of Corrections, the Department of Juvenile
150 Justice, the Florida Commission on Offender Review, the State
151 Courts Administrator and circuit court administrators, the
152 Department of Law Enforcement, and every sheriff's department,
153 police department, or other law enforcement agency as defined in
154 s. 943.10(4) shall develop and implement guidelines for the use
155 of their respective agencies, which guidelines are consistent
156 with the purposes of this act and s. 16(b), Art. I of the State
157 Constitution and are designed to implement s. 16(b), Art. I of
158 the State Constitution and to achieve the following objectives:

159 (b) *Information for purposes of notifying victim or*
160 *appropriate next of kin of victim or other designated contact of*
161 *victim.*-In the case of a homicide, pursuant to chapter 782; or a
162 sexual offense, pursuant to chapter 794; or an attempted murder
163 or sexual offense, pursuant to chapter 777; or stalking,
164 pursuant to s. 784.048; or domestic violence, pursuant to s.
165 25.385:

166 1. The arresting law enforcement officer or personnel of an
167 organization that provides assistance to a victim or to the
168 appropriate next of kin of the victim or other designated
169 contact must request that the victim or appropriate next of kin
170 of the victim or other designated contact complete a victim
171 notification card. However, the victim or appropriate next of
172 kin of the victim or other designated contact may choose not to
173 complete the victim notification card.

174 2. Unless the victim or the appropriate next of kin of the

11-00505-21

2021626__

175 victim or other designated contact waives the option to complete
176 the victim notification card, a copy of the victim notification
177 card must be filed with the incident report or warrant in the
178 sheriff's office of the jurisdiction in which the incident
179 report or warrant originated. The notification card shall, at a
180 minimum, consist of:

- 181 a. The name, address, and phone number of the victim; or
- 182 b. The name, address, and phone number of the appropriate
183 next of kin of the victim; or
- 184 c. The name, address, and telephone number of a designated
185 contact other than the victim or appropriate next of kin of the
186 victim; and
- 187 d. Any relevant identification or case numbers assigned to
188 the case.

189 3. The chief administrator, or a person designated by the
190 chief administrator, of a county jail, municipal jail, juvenile
191 detention facility, or residential commitment facility shall
192 make a reasonable attempt to notify the alleged victim or
193 appropriate next of kin of the alleged victim or other
194 designated contact within 4 hours following the release of the
195 defendant on bail or, in the case of a juvenile offender, upon
196 the release from residential detention or commitment. If the
197 chief administrator, or designee, is unable to contact the
198 alleged victim or appropriate next of kin of the alleged victim
199 or other designated contact by telephone, the chief
200 administrator, or designee, must send to the alleged victim or
201 appropriate next of kin of the alleged victim or other
202 designated contact a written notification of the defendant's
203 release.

11-00505-21

2021626__

204 4. Unless otherwise requested by the victim or the
205 appropriate next of kin of the victim or other designated
206 contact, the information contained on the victim notification
207 card must be sent by the chief administrator, or designee, of
208 the appropriate facility to the subsequent correctional or
209 residential commitment facility following the sentencing and
210 incarceration of the defendant, and unless otherwise requested
211 by the victim or the appropriate next of kin of the victim or
212 other designated contact, he or she must be notified of the
213 release of the defendant from incarceration as provided by law.

214 5. If the defendant was arrested pursuant to a warrant
215 issued or taken into custody pursuant to s. 985.101 in a
216 jurisdiction other than the jurisdiction in which the defendant
217 is being released, and the alleged victim or appropriate next of
218 kin of the alleged victim or other designated contact does not
219 waive the option for notification of release, the chief
220 correctional officer or chief administrator of the facility
221 releasing the defendant shall make a reasonable attempt to
222 immediately notify the chief correctional officer of the
223 jurisdiction in which the warrant was issued or the juvenile was
224 taken into custody pursuant to s. 985.101, and the chief
225 correctional officer of that jurisdiction shall make a
226 reasonable attempt to notify the alleged victim or appropriate
227 next of kin of the alleged victim or other designated contact,
228 as provided in this paragraph, that the defendant has been or
229 will be released.

230 Section 7. For the purpose of incorporating the amendment
231 made by this act to section 985.101, Florida Statutes, in a
232 reference thereto, subsection (2) of section 985.439, Florida

11-00505-21

2021626__

233 Statutes, is reenacted to read:

234 985.439 Violation of probation or postcommitment
235 probation.—

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

240 Section 8. For the purpose of incorporating the amendment
241 made by this act to section 985.24, Florida Statutes, in a
242 reference thereto, subsection (1) of section 985.25, Florida
243 Statutes, is reenacted to read:

244 985.25 Detention intake.—

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

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

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

11-00505-21

2021626__

262 (c) If the final score on the child's risk assessment
263 instrument indicates detention care is appropriate, but the
264 department otherwise determines the child should be released,
265 the department shall contact the state attorney, who may
266 authorize release.

267 (d) If the final score on the risk assessment instrument
268 indicates detention is not appropriate, the child may be
269 released by the department in accordance with ss. 985.115 and
270 985.13.

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

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